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सं. 16] नई दिल्ली, अप्रैल 10—अप्रैल 16, 2005, शनिवार/चैत्र 20—चैत्र 26, 1927
No. 16] NEW DELHI, APRIL 10—APRIL 16, 2005, SATURDAY/CHAITRA 20—CHAITRA 26, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(आर्थिक कार्य विभाग)
(बैंकिंग प्रभाग)

नई दिल्ली, 7 अप्रैल, 2005

का.आ. 1349.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) योजना, 1970 के खंड 3 के उप-खण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970, की धारा 9 की उपधारा (3) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारतीय रिजर्व बैंक, मुम्बई के प्रभारी मुख्य महाप्रबंधक श्री सी. एस. मूर्ति को भारतीय रिजर्व बैंक, मुम्बई के मुख्य महाप्रबंधक श्री आनंद सिन्हा के स्थान पर तत्काल प्रभाव से और अगला आदेश होने तक इण्डियन ओवरसीज बैंक के निदेशक के रूप में नामित करती है।

[सं. एफ 9/18/2000-बीओ-1]

जी. बी. सिंह, अवर सचिव

MINISTRY OF FINANCE
(Department of Economic Affairs)
(Banking Division)

New Delhi, the 7th April, 2005

S.O. 1349.—In exercise of the powers conferred by clause (c) of Sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, hereby nominates Shri C.S. Murthy, Chief General Manager-in-charge, Reserve Bank of India, Mumbai as a Director of Indian Overseas Bank with immediate effect and until further orders *vice* Shri Anand Shina, Chief General Manager, Reserve Bank of India, Mumbai.

[F. No. 9/18/2000-BO.1]

G. B. SINGH, Under Secy.

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 31 मार्च, 2005

(आयकर)

का.आ. 1350.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23G) के उप-खण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा "पेरियार मनियाम्माई इंस्टीट्यूट आफ साइंस एण्ड टेक्नोलॉजी, पेरियार, चेन्नई" को निर्धारण वर्ष 2001-2002 से 2003-2004 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्—

- (i) कर निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उनका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापन की गई है;
- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उससे जमा नहीं करेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखा जाती हों;
- (iv) कर निर्धारिती आय कर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष दाखिल करेगा;
- (v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 126/2005/फा. सं. 197/30/2005-आयकर नि-1]

दीपक गर्ग, अवर सचिव

(Department of Revenue)

(Central Board of Direct Taxes)

New Delhi, the 31st March, 2005

(INCOME-TAX)

S.O. 1350.—In exercise of the powers conferred by the sub-clause (iv) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Periyar Maniammai Institute of Science & Technology, Periyar, Chennai" for the purpose of the said sub-clause for the assessment year

2001-2002 to 2003-2004 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of account are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 126/2005/F. No. 197/30/2005-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 4 अप्रैल, 2005

(आयकर)

का.आ. 1351.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 80-छ की उप-धारा (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा उक्त धारा के प्रयोजनार्थ सम्पूर्ण केरल राज्य में विख्यात एक सार्वजनिक पूजा स्थल के रूप में "थूरवूर महाक्षेत्रम्", थूरवूर, केरल को विनिर्दिष्ट करती है।

[अधिसूचना संख्या 128/2005/फा. सं. 176/9/2004-आयकर नि.-1]

देवी शरण सिंह, अवर सचिव

New Delhi, the 4th April, 2005

(INCOME-TAX)

S.O. 1351.—In exercise of the powers conferred by (b) of sub-clause (2) of Section 80G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies "Thuravoor Mahakshethram", Thuravoor, Kerala to be a place of public worship of renown throughout the State of Kerala for the purposes of the said Section.

[Notification No. 128/2005/F. No. 176/9/2004-ITA.I]

DEVI SHARAN SINGH, Under Secy.

कार्यालय मुख्य आयकर आयुक्त

उदयपुर, 4 अप्रैल, 2005

का०आ० 1352.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23ग) की उप-धारा (vi) के साथ पठित आयकर नियमावली, 1962 के नियम 2 गक के द्वारा प्रदत्त अधिकारों को प्रयोग करते हुए मुख्य आयकर आयुक्त, उदयपुर, "मेयो कॉलेज जनरल काउन्सिल, अजमेर (राजस्थान) (एजुकेशनल बोडी-ए.ओ.पी.)" को उक्त धारा के प्रयोजन हेतु निर्धारण वर्ष 2005-06 से 2007-08 के लिए अनुमोदन करते हैं।

परन्तु यह तब जब की सोसायटी आयकर अधिनियम, 1961 की धारा 10 के खण्ड (23ग) की उपधारा (vi) के साथ पठित आयकर नियमावली, 1962 के नियम 2 गक के प्रावधानों की पुष्टि एवं अनुपालना करती है।

[अधिसूचना सं. 01/22/4-4-2005]

पी० के० मिश्र, मुख्य आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

Udaipur, the 4th April, 2005

S.O. 1352.—In exercise of the powers conferred by Sub-section (vi) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962, the Chief Commissioner of Income-tax, Udaipur hereby approves "Mayo College General Council, Ajmer (Rajasthan) (Educational Body-AOP)" for the purpose of said section for the assessment years 2005-06 to 2007-08.

Provided that the society conforms to and complies with the provisions of Sub-section (vi) of Clause (23C) of Section 10 of the Income-tax Act, 1961, read with rule 2CA of the Income-tax Rules, 1962.

[Notification No. 1/22/4-4-2005]

P. K. MISRA, Chief Commissioner

उदयपुर, 5 अप्रैल, 2005

का०आ० 1353.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23ग) की उप-धारा (vi) के साथ पठित आयकर नियमावली, 1962 के नियम 2 गक के द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए मुख्य आयकर आयुक्त, उदयपुर, "संत मैरीज हायर सेकेन्डरी स्कूल एजुकेशन सोसायटी, अजमेर" को उक्त धारा के प्रयोजन हेतु निर्धारण वर्ष 2003-04 से 2005-06 के लिए अनुमोदन करते हैं।

परन्तु यह तब जब की सोसायटी आयकर अधिनियम, 1961 की धारा 10 के खण्ड (23ग) की उपधारा (vi) के साथ पठित आयकर नियमावली, 1962 के नियम 2 गक के प्रावधानों की पुष्टि एवं अनुपालना करती है।

[अधिसूचना सं.-02/23/05-04-2005]

पी० के० मिश्र, मुख्य आयुक्त

Udaipur, the 5th April, 2005

S.O. 1353.—In exercise of the powers conferred by Sub-section (vi) of Clause (23C) of Section 10 of the

Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962, the Chief Commissioner of Income-tax, Udaipur hereby approves "St. Mary's Higher Secondary School Educational Society, Ajmer" for the purpose of said section for the assessment years 2003-04 to 2005-06.

Provided that the society conforms to and complies with the provisions of Sub-section (vi) of Clause (23C) of Section 10 of the Income-tax Act, 1961, read with rule 2CA of the Income-tax Rules, 1962.

[Notification No. 2/23/05-04-2005]

P. K. MISRA, Chief Commissioner

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 10 मार्च, 2005

का०आ० 1354.—केन्द्र सरकार इस मंत्रालय की दिनांक 5 फरवरी, 2005 की समसंख्यक अधिसूचना के अधिक्रमण में और चलचित्रकी (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्रकी अधिनियम, 1952 (1952 का 37) की उप-धारा (i) के खण्ड 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित व्यक्तियों को 2 वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्यों के रूप में तत्काल प्रभाव से नियुक्त करती है।

1. श्री बी० बी० एस० सूर्या नारायण
2. श्री कतनाम वेंकट रतनालू

[फा० सं० 809/3/2004-एफ.(सी)]

पी० पी० नायर, डैस्क अधिकारी

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, 10th March, 2005

S.O. 1354.—In continuation of this Ministry's Notification of even number dated 5th February, 2005 and in exercise of the powers conferred by Sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Hyderabad advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

1. Shri B. V. S. Surya Naraina
2. Shri Katnam Venkata Ratnalu

[F. No. 809/3/2004-F(C)]

P. P. NAIR, Desk Officer

नई दिल्ली, 21 मार्च, 2005

का०आ० 1355.—दिनांक 5 फरवरी, 2005 की समसंख्यक अधिसूचना में क्रम संख्या 4 में उल्लिखित नाम को डॉ० मृणालिनी डी पटेल के स्थान पर डॉ० मृणालिनी डी पाटिल पढ़ा जाए।

[फा० सं० 809/12/2003-एफ.(सी)]

विश्वजीत सहाय, निदेशक (फिल्म)

New Delhi, 21st March, 2005

S.O. 1355.—In the Notification of even number dated 5th February, 2005 the name appearing at S. No. 4 may be read as Dr. Mrunalini D. Patil instead of Dr. Mrunalini D. Patel.

[F. No. 809/12/2003-F(C)]

VISHVAJIT SAHAY, Director (Films)

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 6 अप्रैल, 2005

का०आ० 1356.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

महाप्रबंधक दूरसंचार, महाराष्ट्र परिमंडल, भारत संचार निगम लिमिटेड, सर विश्वेश्वरैया मार्ग संचार भवन, नाशिक-422002

दूरसंचार प्रशिक्षण केन्द्र, महाराष्ट्र परिमंडल, भारत संचार निगम लिमिटेड, सातपुर, नाशिक-422007

[फा० सं० ई० 11016/1/2004-रा०भा०]

हरीश चन्द्र जयाल, संयुक्त सचिव

**MINISTRY OF COMMUNICATIONS AND
INFORMATION TECHNOLOGY**

(Department of Telecommunications)

(O. L. Section)

New Delhi, 6th April, 2005

S.O. 1356 —In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Office under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications where of more than 80% of staff have acquired working knowledge of Hindi.

G.M. Telecom, Maharashtra Circle, BSNL, Sir Vishveshervya Marg, Sanchar Bhawan, Nasik-422002.

Telecom Training Centre, Maharashtra Circle, BSNL Satpur, Nasik-422007.

[No. E. 11016/1/2004(O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

नई दिल्ली, 6 अप्रैल, 2005

का०आ० 1357.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

**मुख्य महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड,
झारखण्ड परिमंडल**

महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड, धनबाद

[फा० सं० ई० 11016/1/2004-रा०भा०]

हरीश चन्द्र जयाल, संयुक्त सचिव

New Delhi, the 6th April, 2005

S.O. 1357.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Office under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications where of more than 80% of staff have acquired working knowledge of Hindi.

Chief General Manager Telecom, BSNL, Jharkhand Circle,

General Manager Telecom., BSNL, Dhanbad.

[No. E. 11016/1/2004(O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

नई दिल्ली, 6 अप्रैल, 2005

का०आ० 1358.—केन्द्र सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड,
हिमाचल प्रदेश परिमंडल, शिमला

1. उप मंडल अधिकारी (तार) मनाली

2. उप मंडल अधिकारी (दूरभाष) मनाली

[फा० सं० ई० 11016/1/2004-रा०भा०]

हरीश चन्द्र जयाल, संयुक्त सचिव

New Delhi, the 6th April, 2005

S.O. 1358.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Offices under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications where of more than 80% of staff have acquired working knowledge of Hindi.

Chief General Manager Telecom, BSNL, Himachal Pradesh Circle, Shimla

1. Sub Divisional Officer Telecom. (Telegraph) Manali.

2. Sub Divisional Officer (Telephone) Manali.

[No. E. 11016/1/2004(O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

नई दिल्ली, 6 अप्रैल, 2005

का.आ. 1359.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड,
झारखंड परिमंडल,

महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड, धनबाद

[सं. ई. 11016/1/2004-रा.भा.]

हरीश चन्द्र जयल, संयुक्त सचिव

New Delhi, the 6th April, 2005

S.O. 1359.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), Rules, 1976 (as amended—1987), the Central Government hereby notifies the following Office under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications whereof more than 80% of staff have acquired working knowledge of Hindi.

Chief General Manager Telecom, BSNL, Jharkhand Circle

General Manager Telecom, BSNL, Dhanbad.

[No. E. 11016/1/2004 (O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

विदेश मंत्रालय

(सी.पी.वी. डिविजन)

नई दिल्ली, 28 मार्च, 2005

का.आ. 1360.—राजनयिक कौंसली अधिकारी (शपत एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कौंसलावास, इस्तानबुल में श्री निकेत मोहन शर्मा, सहायक को 28-03-2005 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं. टी-4330/01/2005]

उपेन्द्र सिंह रावत, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 28th March, 2005

S.O. 1360.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths

and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri Niket Mohan Sharma, Assistant in the Consulate General of India, Istanbul to perform the duties of Assistant Consular Officer *vice* Shri Mahesh Kumar with effect from 28-03-2005.

[No. T. 4330/01/2005]

U. S. RAWAT, Under Secy. (Cons.)

कृषि मंत्रालय

(कृषि अनुसंधान तथा शिक्षा विभाग)

नई दिल्ली, 5 अप्रैल, 2005

का.आ. 1361.—केन्द्रीय सरकार, कृषि अनुसंधान एवं शिक्षा विभाग, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में एतद्वारा केन्द्रीय कपास अनुसंधान संस्थान, (भा.कृ.अ.प.) नागपुर के क्षेत्रीय केन्द्र, सिरसा (हरियाणा), जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[फा. सं. 13-2/2002-हिन्दी]

डी. के. छतवाल, अवर सचिव

MINISTRY OF AGRICULTURE

(Department of Agricultural Research and Education)

New Delhi, the 5th April, 2005

S.O. 1361.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for Official Purpose of the Union) Rules, 1976, the Central Government, Ministry of Agriculture, Department of Agricultural Research and Education hereby notifies the Regional Centre Sirsa (Haryana) of Central Institute For Cotton Research (ICAR), Nagpur where more than 80% of staff have acquired the working knowledge of Hindi.

[F. No. 13-2/2002-Hindi]

D. K. CHHATWAL, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 1 अप्रैल, 2005

का.आ. 1362.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय संख्या	मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आईएस 12887:1989 खाद्य तेलों की पैकिंग के लिए पोलिइथाइलीन टरथेलेट (पीईटी) की बोतलें	संशोधन संख्या 3 फरवरी, 2005	तत्काल प्रभाव से

इन संशोधनों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. पीसीडी/जी-7(गजट)]

डॉ. (श्रीमती) विजय मलिक, वैज्ञानिक "ई" निदेशक एवं प्रमुख (पेट्रोल, कोयला एवं संबंधित उत्पाद)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 1st April, 2005

S.O. 1362.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 12887:1989 Polyethylene terephthalate (PET) bottles for packing of edible oils—Specification	Amendment No. 3 February, 2005	With immediate effect

Copy of this Amendment is available for sale with the Bureau of Indian Standards, Manak Bhawan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional

Offices : New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. PCD/G-7(Gazette)]

Dr. (Shrimati) VIJAY MALIK, Scientist 'E'

Director and Head (Petrol Coal and related products)

नई दिल्ली, 4 अप्रैल, 2005

का.आ. 1363.—भारतीय मानक ब्यूरो नियम, 1987 के नियम, 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय संख्या	मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आईएस 779:1994	4 जनवरी, 2005	1 मई, 2005

इन संशोधनों की प्रतियां भारतीय मानक ब्यूरो मानक भवन 9 बहादुर शाह जफर मार्ग नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. सीईडी/राजपत्र]

सतीश कुमार जैन, निदेशक व प्रमुख (सिविल इंजीनियरी)

New Delhi, the 4th April, 2005

S.O. 1363.—In pursuance of the clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 779:1994	4 January, 2005	1 May, 2005

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhawan, 9 Bahadur

Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CED/Gazette]

S. K. JAIN, Director & Head (Civil Engg.)

नई दिल्ली, 5 अप्रैल, 2005

का.आ. 1364.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस भाग 5644 (भाग 2) : 2005 धात्विक चूर्ण— अवकरण पद्धतियों द्वारा ऑक्सीजन का अंश ज्ञात करना, भाग 2 हाईड्रोजन अवकरण से द्रव्य-मान में कमी (हाईड्रोजन क्षति) (चौथा पुनरीक्षण)	आईएस 5644 (भाग 2) : 1993 (तीसरा पुनरीक्षण)	31 मार्च, 2005

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एम टीडी 25/टी-66]

एस. के. गुप्ता, वैज्ञानिक 'एफ' एवं प्रमुख (एम टी डी)

New Delhi, the 5th April, 2005

S.O. 1364.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in

the Schedule hereto annexed have been established on the indicated against each :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 5644 (Part 2) : 2005 Metallic Powders—Determination of oxygen content by reduction methods Part 2 Loss of mass on hydrogen reduction (Hydrogen loss) (Fourth Revision)	IS 5644 (Part 2) : 1993 (Third Revision)	31 March, 2005

Copy of this Standard, is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : MTD 25/T-66]

S. K. GUPTA, Scientist 'F' & Head (MTD)

नई दिल्ली, 5 अप्रैल, 2005

का.आ. 1365.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	550 (भाग 2) : 2005 तिजोरियाँ भाग 2 चोरी से प्रतिरोध संबंधी परीक्षण (चौथा पुनरीक्षण)	550 (भाग 2) : 1991 तिजोरियाँ भाग 2 चोरी से प्रतिरोध संबंधी परीक्षण (तीसरा पुनरीक्षण)	28 फरवरी, 2005

(1)	(2)	(3)	(4)
2.	550 (भाग 3) : 2005 तिजोरियाँ भाग 3 अग्नि प्रतिरोधी परीक्षण (चौथा पुनरीक्षण)	550 (भाग 3) : 1991 तिजोरियाँ भाग 3 अग्नि प्रतिरोधी परीक्षण (तीसरा पुनरीक्षण)	28 फरवरी, 2005
3.	7285 (भाग 1) : 2005 फिर से भरे जा सकने वाले जोड़ रहित इस्पात के गैस सिलिंडर, विशिष्ट भाग 1 प्रसामान्यीकृत इस्पात सिलिंडर (तीसरा पुनरीक्षण)	7285 : 1988 स्थाई एवं उच्च दाब द्रवीय गैसों के लिए जोड़ रहित इस्पात सिलिंडरों की विशिष्ट (द्वितीय पुनरीक्षण)	1 अक्टूबर, 2005
4.	7285 (भाग 2) : 2005 फिर से भरे जा सकने वाले जोड़ रहित इस्पात के गैस सिलिंडर, विशिष्ट भाग 2—1100 एम पी ए (112 के जी एफ/वर्ग एम एम) से कम की न्यूनता सामर्थ्य वाले इस्पात के क्वेंच और टैम्पर सिलिंडर (तीसरा पुनरीक्षण)	7285 : 1988 स्थाई एवं उच्च दाब द्रवीय गैसों के लिए जोड़ रहित इस्पात सिलिंडरों की विशिष्ट (द्वितीय पुनरीक्षण)	1 अक्टूबर, 2005
5.	8534 (भाग 1) : 2005 खान टब युग्मन और कर्षण शलाकाएं भाग 1 सामान्य अपेक्षाएं (द्वितीय पुनरीक्षण)	8534 (भाग 1) : 1994 खान टब युग्मन और कर्षण शलाकाएं भाग 1 सामान्य अपेक्षाएं (प्रथम पुनरीक्षण)	28 फरवरी, 2005
6.	15490 : 2004 वाहनों के लिए ईंधन के रूप में संपीडित प्राकृतिक गैस के ऑन-बोर्ड भंडारण के लिए सिलिंडर— विशिष्ट	—	1 अक्टूबर, 2005

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहटी,

हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. एम. ई. डी./जी- 2 : 1]

ए.एस.बसु, वैज्ञानिक 'एफ' एवं प्रमुख (यांत्रिक इंजी. विभाग)

New Delhi, the 5th April, 2005

S.O. 1365.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	550 (Part 2) : 2005 Safes : Part 2 Test for burglary resistance (Fourth Revision)	550 (Part 2) : 1991 Safes : Part 2 Test for burglary resistance (Third Revision)	28 February, 2005
2.	550 (Part 3) : 2005 Safes : Part 3 Test for fire resistance (Fourth Revision)	550 (Part 3) : 1991 Safes : Part 3 Test for fire resistance (Third Revision)	28 February, 2005
3.	7285 (Part 1) : 2004 Refillable seamless steel gas cylinders— Specification Part 1 Normalized steel cylinders (Third Revision)	7285 : 1988 Specifi- cation for seamless steel gas cylinders for permanent and high pressure liquefiable gases	1 October, 2005
4.	7285 (Part 2) : 2004 Refillable seamless steel gas cylinders— Specification Part 2 Quenched and tempered steel cylinders with tensile strength less than 1100 MPa (112 kgf/mm ²) (Third Revision)	7285 : 1988 Specifi- cation for seamless steel gas cylinders for permanent and high pressure liquefiable gases (Second Revision)	1 October, 2005

(1)	(2)	(3)	(4)
5.	8534 (Part 1) : 2005 Mine tub couplings and drawbars Part 1 General requirements (Second Revision)	8534 (Part 1) : 1994 Mine tub couplings and drawbars Part 1 General requirements (First Revision)	28 February, 2005
6.	15490 : 2004 Cylinders for onboard storage of Compressed Natural Gas as a fuel for automotive vehicles —Specification	—	1 October, 2005

Copy of this Standard, is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. MED/G-2 : 1]

A. S. BASU, Scientist 'F' & Head (MED)

नई दिल्ली, 5 अप्रैल, 2005

का.आ. 1366.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक 'की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	3196 (भाग 1) : 1992 अल्प दाब द्रवणीय गैसों के लिए 5 लिटर से अधिक जलक्षमता वाले वेल्डित अल्प कार्बन इस्पात के सिलिंडर भाग 1 द्रवित पेट्रोलियम गैस (एल पी जी) के लिए सिलिंडर—विशिष्ट	संशोधन सं. 5, फरवरी, 2005	तत्काल प्रभाव से
2.	11241 : 1985 वाष्प दाब पर प्रचालित द्रवित पेट्रोलियम गैस साधित्रों की विशिष्ट	संशोधन सं. 2, फरवरी, 2005	28 फरवरी, 2005

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुंबई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. एम. ई. डी./जी- 2 : 1]

ए.एस.बसु, वैज्ञानिक 'एफ' एवं प्रमुख (यांत्रिक इंजी. विभाग)

New Delhi, the 5th April, 2005

S.O. 1366.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 3196 (Part 1) : 1992 Welded low carbon steel cylinders exceeding 5 litre water capacity for low pressure liquefiable gases Part 1 Cylinders for liquefied petroleum gases (LPG)—Specification.	Amendment No. 5 February, 2005	With immediate effect
2.	IS 11241 : 1985 Specification for portable liquefied petroleum gas appliances operating at vapour pressure.	Amendment No. 2 February, 2005	28 February, 2005

Copy of this Standard, is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. MED/G-2 : 1]

A. S. BASU, Scientist 'F' & Head (MED)

नई दिल्ली, 5 अप्रैल, 2005

New Delhi, the 5th April, 2005

का.आ. 1367.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिये गए हैं और वापस ले लिये गये हैं :

अनुसूची

क्रम संख्या	रद्द किये गये मानक की संख्या और वर्ष	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)	(4)
1.	8198 (भाग 1) : 1984 संपीड़ित गैस के लिए इस्पात के सिलिंडरों की रीति संहिता भाग 1 वायु- मंडलीय गैस (प्रथम पुनरीक्षण)	—	8198 : 2004 द्वारा अधिक्रमण करते हुए।
2.	8198 (भाग 2) : 1984 संपीड़ित गैस के लिए इस्पात के सिलिंडरों की रीति संहिता भाग 2 हाईड्रोजन गैस (प्रथम पुनरीक्षण)	—	8198 : 2004 द्वारा अधिक्रमण करते हुए।
3.	8198 (भाग 3) : 1984 संपीड़ित गैस के लिए इस्पात के सिलिंडरों की रीति संहिता भाग 3 उच्च दाब द्रवणीय गैस (प्रथम पुनरीक्षण)	0463/ 19870214	8198 : 2004 द्वारा अधिक्रमण करते हुए।
4.	8198 (भाग 4) : 1984 संपीड़ित गैस के लिए इस्पात के सिलिंडरों की रीति संहिता भाग 4 घुलनशील एसीटलीन गैस (प्रथम पुनरीक्षण)	0463/ 19870214	8198 : 2004 द्वारा अधिक्रमण करते हुए।

[सं. एम. ई. डी./जी-2 : 1]

ए. एस. बसु, वैज्ञानिक 'एफ' एवं प्रमुख (एम ई डी)

S.O. 1367.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, it is, hereby notified that the Indian Standards, Particulars of which are mentioned in the Schedule give hereafter, have been cancelled and stand withdrawn :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Cancelled	S.O. No. & Date published in the Gazette of India Part-II, Section-3 Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	8198 (Part 1) : 1984 Code of practice for steel cylinders for compressed gases Part 1 Atmospheric gases (First Revision)	—	Superseded by IS 8198 : 2004
2.	8198 (Part 2) : 1984 Code of practice for steel cylinders for compressed gases Part 2 Hydrogen gases (First Revision)	—	Superseded by IS 8198 : 2004
3.	8198 (Part 3) : 1984 Code of practice for steel cylinders for compressed gases Part 3 High Pressure liquefiable gases (First Revision)	0463 dated 19870214	Superseded by IS 8198 : 2004
4.	8198 (Part 4) : 1984 Code of practice for steel cylinders for compressed gases Part 4 Dissolved acety- lene gases (First Revision)	0463 dated 19870214	Superseded by IS 8198 : 2004

[No. MED/G-2 : 1]

A. S. BASU, Scientist 'F' & Head (MED)

नई दिल्ली, 29 मार्च, 2005.

का.आ. 1368.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ओएसिस टेक्नोलॉजिज, नं. 605, तृतीय बी मुख्य, पहला फेज, जे. पी. नगर, सारावकी, बंगलौर-560078 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ओ-टी बी-36" शृंखला के अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "ओएसिस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/286 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 किग्रा. है इसकी न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी मुद्रांकित किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में, सत्यापन मापन अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(298)/2003]

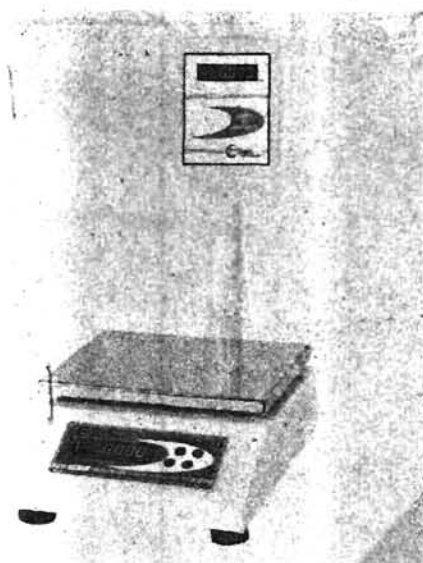
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th March, 2005

S.O. 1368 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Table Top Type) with digital indication of "O-TB-36" series of medium accuracy (Accuracy class III) and with brand name "OASIS" (hereinafter referred to as the said model), manufactured by M/s Oasis Technologies, No. 605, 3rd B Main, 1st Phase, J.P. Nagar, Sarakki, Bangalore-560078 and which is assigned the approval mark IND/09/2004/286;

The said model is (see the figure given below) a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 percent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V 50Hz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(298)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 29 मार्च, 2005

का.आ. 1369 .—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ओएसिस टेक्नोलॉजिज, नं. 605, तृतीय बी मुख्य, पहला फेज, जे. पी. नगर, साराक्की, बंगलौर-560078 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ओ-पी एफ-45" शृंखला के अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "ओएसिस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/287 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. है इसकी न्यूनतम क्षमता 4 कि. ग्रा. है। सत्यापन मापमान (ई) अन्तराल 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी मुद्रांकित की जाएगी।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में, सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से अधिक और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं० डब्ल्यू एम-21(298)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th March, 2005

S.O. 1369.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "O-PF-45" series of medium accuracy (Accuracy class III) and with brand name "OASIS" (hereinafter referred to as the said model), manufactured by M/s Oasis Technologies, No. 605, 3rd B Main, 1st Phase, J.P. Nagar, Sarakki, Bangalore-560078 and which is assigned the approval mark IND/09/2004/287;

The said model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 percent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V_{AC} 50Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and upto 5000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(298)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1370.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एस्सा डिजीटल सिस्टम गांधी चौक, मनगांव, हाटकाननगेटले, कोल्हापुर, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "डी एस-109" श्रृंखला के अंकक सूचन सहित, अस्वचालित, तोलन उपकरण (प्लेटफार्म प्रकार-दोहरी रेंज) के मॉडल का, जिसके ब्रांड का नाम "एस्सा" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/332 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित (प्लेटफार्म प्रकार-दोहरी रेंज) तोलन उपकरण है। इसकी अधिकतम क्षमता 1500 कि. ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) का नाम 750 कि. ग्रा. के लिए 100 ग्रा. और 750 कि. ग्रा. से अधिक और 1500 कि. ग्रा. तक के लिए 200 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबंद किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में, सत्यापन मान अंतराल सहित 50 कि. ग्रा. से अधिक और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

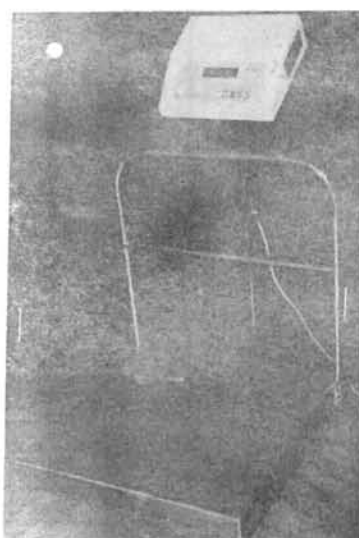
[फा. सं० डब्ल्यू एम-21(340)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1370.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type-dual range) with digital indication of "DS-109" series of medium accuracy (accuracy class-III) and with brand name "ESSA" (hereinafter referred to as the said Model), manufactured by M/s Essa digital System, Gandhi Chouk, Mangaon, Hatkanangate, Kolhapur, Maharashtra and which is assigned the approval mark IND/09/2004/332;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type-dual range) with a maximum capacity of 1500 kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g up to 750kg and 200g above 750 kg and up to 1500kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 5000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(340)/2003]

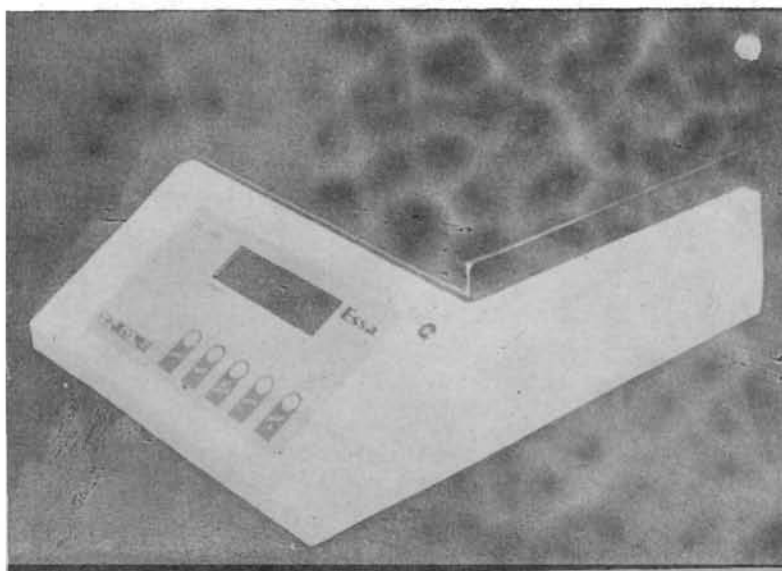
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1371.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एस्सा डिजिटल सिस्टम, गांधी चौक, मनगांव, हाटकाननगटले, कोल्हापुर, महाराष्ट्र द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “डी एस-1008” शृंखला के अंकक सूचन सहित, अस्वचालित, तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम “एस्सा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/330 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित (टेबल टाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 15 कि. ग्रा. और न्यूनतम क्षमता 50 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक “ई” मान के लिए 100 से 50,000 तक की रेंज में, सत्यापन मान अंतराल (एन) सहित 100 मि. ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं० डब्ल्यू एम-21(340)/2003]

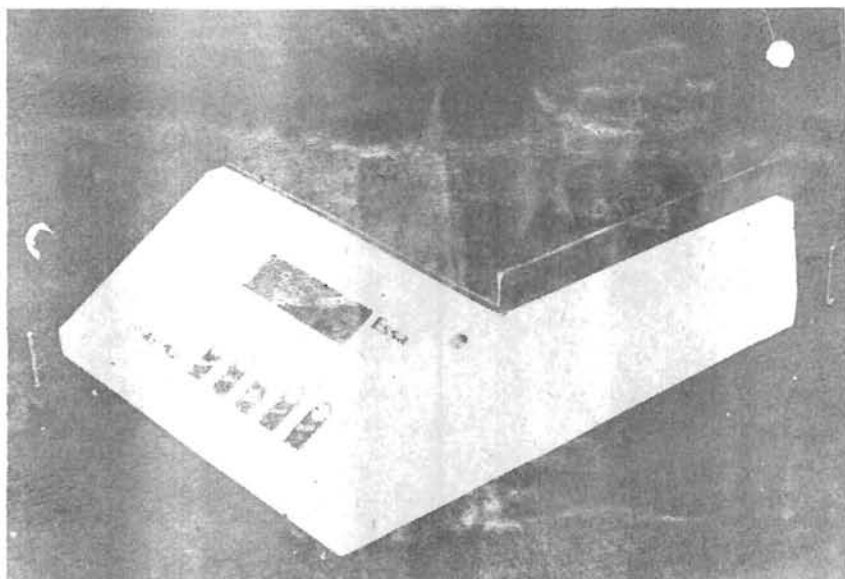
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1371.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "DS-1008" series of high accuracy (Accuracy class-III) and with brand name "ESSA" (hereinafter referred to as the said Model), manufactured by M/s. Essa Digital System, Gandhi Chouk, Mangaon, Hatkanangate, Kolhapur, Maharashtra and which is assigned the approval mark IND/09/2004/330;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 15 kg. and minimum capacity of 50g. The verification scale interval (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50 mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(340)/2003]

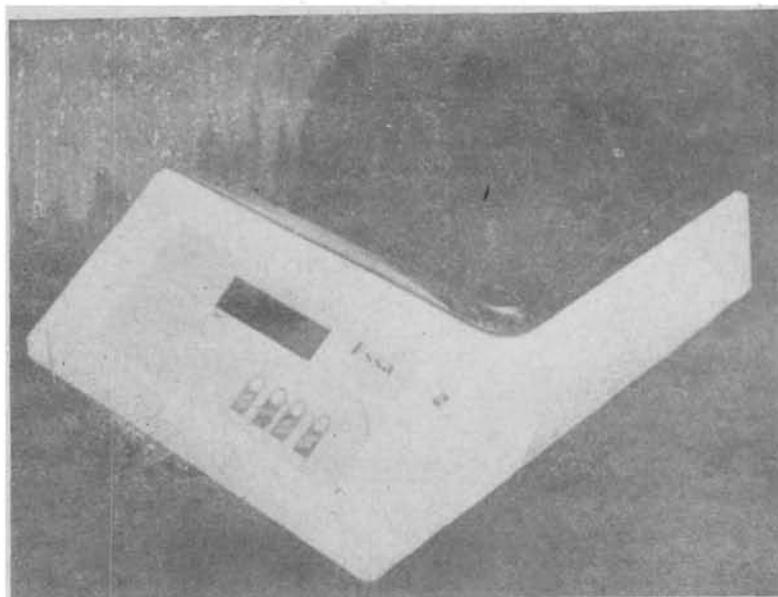
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1372.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अंतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एस्सा डिजिटल सिस्टम, गांधी चौक, प्रनगांव, हाटकाननगटले, कोल्हापुर, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "डी एस-108" शृंखला के अंकक सूचक, अस्वचालित, तोलन उपकरण (टेबल टॉप प्रकार दोहरी रेंज) के मॉडल का, जिसके ब्राण्ड का नाम "एस्सा" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/331 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार—दोहरी रेंज) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 15 कि. ग्रा. के लिए 2 ग्रा. और 15 कि. ग्रा. से अधिक और 30 कि. ग्रा. तक के लिए 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में, सत्यापन मान अंतराल (एन) और 5 ग्रा. या उससे अधिक के ई मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं० डब्ल्यू एम-21(340)/2003]

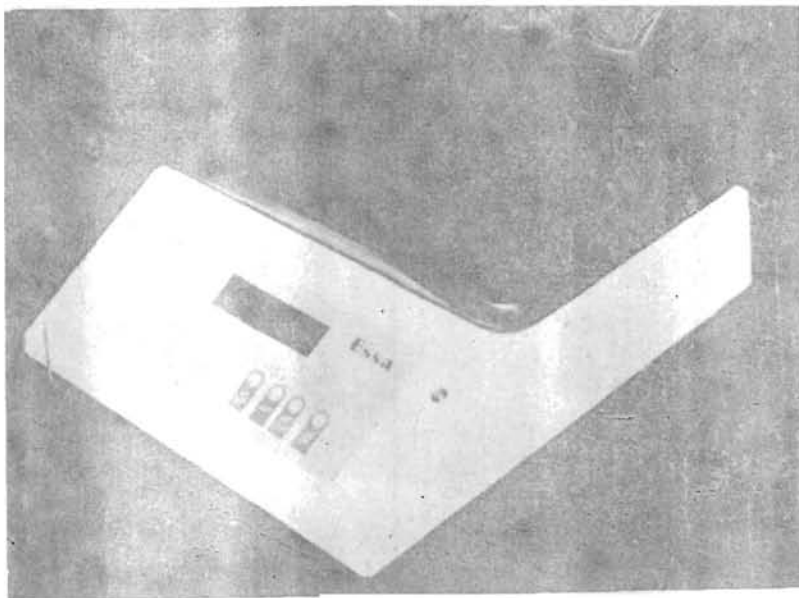
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1372 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table Type—dual range) with digital indication of "DS-108" series of medium accuracy (Accuracy class-III) and with brand name "ESSA" (hereinafter referred to as the said Model), manufactured by M/s Essa Digital System, Gandhi Chouk, Mangaon, Hatkanangate, Kolhapur, Maharashtra and which is assigned the approval mark IND/09/2004/331;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type—dual range) with a maximum capacity of 30 kg. and minimum capacity of 40g. The verification scale interval (e) is 2g. up to 15 kg and 5g above 15 kg and up to 30 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The light crystal display (LED) display indicates the weighing result. The instrument operates on 230V 50Hz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(340)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.अ. 1373.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अपेक्षा में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एलन टेक्नोलोजी, 29/110, बी/एच चारोडिया पुलिस चौकी, मोरार चौक, बापू नगर, अहमदाबाद द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "ए टी पी-550" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "एलन" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/563 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 550 कि.ग्रा. और न्यूनतम क्षमता 2.5 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टैमिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. से ऊपर और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

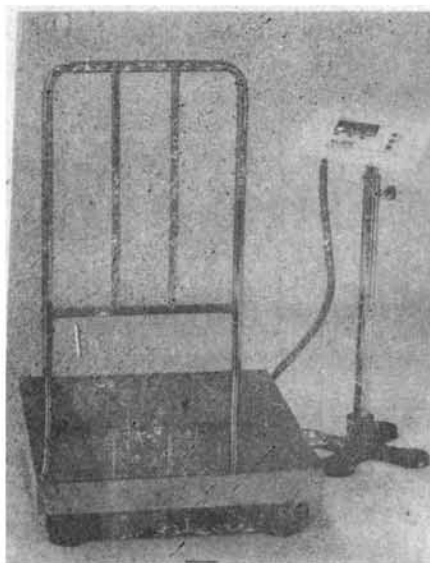
[फा. सं. डब्ल्यू एम-21(199)/2003]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1373.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "ATP550" series of high accuracy (Accuracy class-II) and with brand name "ALIEN" (hereinafter referred to as the said model), manufactured by M/s. Alien Technology, 29/110, B/h Charodia Police Chowki, Morarji Chowk, Bapunagar, Ahmedabad-380024, Gujarat and which is assigned the approval mark IND/09/2004/363;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 550kg and minimum capacity of 2.5kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of the Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity. Above 50 kg and up to 1000 kg with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

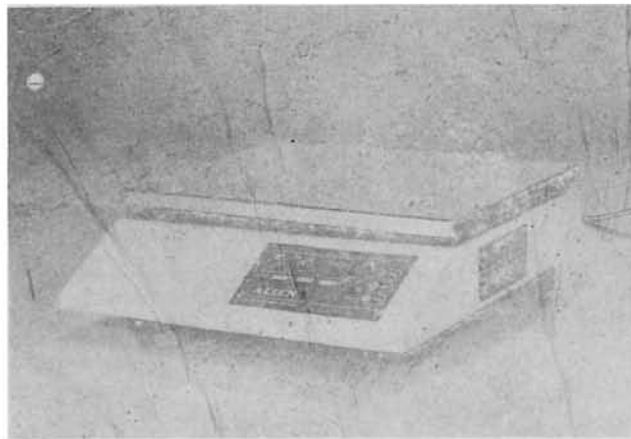
[F. No. WM-21(199)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1374.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एलन टेक्नोलॉजी, 29/110, बी/एच चारोडिया पुलिस चौकी, मोरार चौक, बापू नगर, अहमदाबाद द्वारा विनिर्मित उच्च यथार्थता धर्म (यथार्थता वर्ग-II) वाले "ए टी टी-22" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "एलन" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/362 सनमुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 22 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्ट्रीमिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक "ई" मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

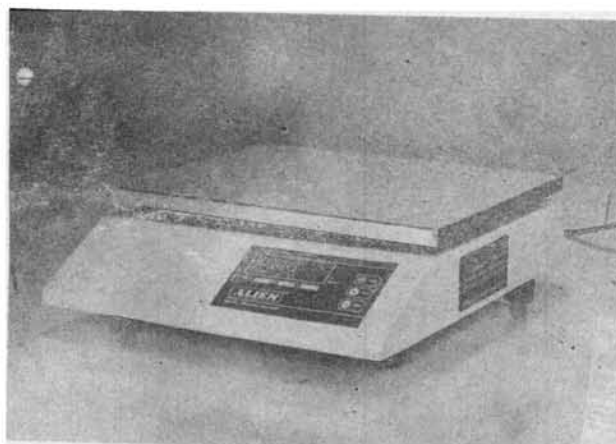
[पत्र. सं. डब्ल्यू एम-21(199)/2003]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1374.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "ATT-22" series of high accuracy (Accuracy class-II) and with brand name "ALIEN" (hereinafter referred to as the said model), manufactured by M/s. Alien Technology, 29/110, B/H Charodia Police Chowki, Morarji Chowk, Bapunagar, Ahmedabad-380024, Gujarat and which is assigned the approval mark IND/09/2004/362.



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 22 kg. and minimum capacity of 100 g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50 mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

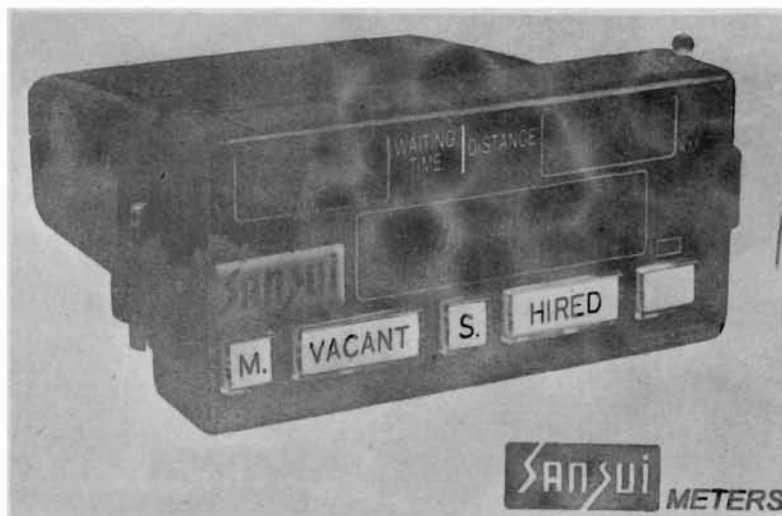
[F. No. WM-21(199)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1375.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सन्सुई मीटर्स, 89/1, भवानी पेठ, नार्थ ब्लॉक, घसेटी पूल के पास, पुणे-411042, महाराष्ट्र द्वारा विनिर्मित "सन्सुई-04" के अंकक सूचन सहित टैक्सी मीटर के मॉडल का, जिसके ब्राण्ड का नाम "सन्सुई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/407 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



स्टॉपिंग प्लेट को सीलबंद करने के अतिरिक्त प्लस जनरेटर केवल कनेक्टिंग प्वाइंट तथा मुख्य किराया मीटर पर, कपटपूर्ण व्यवहार के लिए उसे छेड़छाड़ से रोकने के लिए भी सीलबंदी की जाएगी।

उक्त मॉडल अंकक सूचन के सहित एक टैक्सी मीटर है, जिसमें दूरी और समय मापने की युक्ति समाविष्ट है। यह निरंतर योग करता है तथा यात्रा के किसी भी क्षण पर यात्री द्वारा संदेय प्रभार प्रदर्शित करता है। "संदेय किराया" कतिपय गति से ऊपर तय की गई दूरी तथा उस गति से नीचे लगे समय सीमा का फलनक है। मीटर का पठन सात खण्ड का प्रकाश उत्सर्जक डायोड (एल ई डी) द्वारा उपदर्शित किया जाता है। मीटर का "के" कारक 650 पल्स प्रति किलोमीटर है।

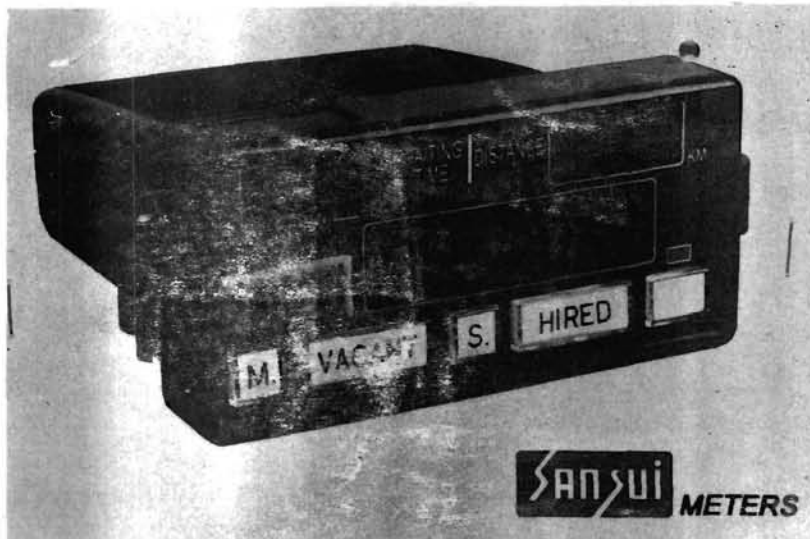
[फा.सं. डब्ल्यू एम-21(108)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1375.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of Taxi Meter with digital indication of 'SANSUI-04' with brand name "SANSUI" (herein referred to as the said model), manufactured by M/s. Sansui Meters, 89/1, Bhawanipeth, North Block, Near Gheseti Pool, Pune-411042, Maharashtra and which is assigned the approval mark IND/09/2004/407.



In addition to sealing stamping plate, sealing shall also be done on the pulse generator, cable connecting points and the main fare meter to prevent their tampering for fraudulent practices.

The said model is a 'Taxi Meter' with digital indication incorporated with a distance and time measuring device. It totalizes continuously and indicates at any moment of the journey, the charges payable by the passenger. The 'fare to pay' is a function of the distance travelled above a certain speed and the length of the time occupied below that speed. The reading of the meter is indicated by seven segment Light Emitting Diode (LED). The 'K' factor of the meter is 650 pulses per kilometer.

[F. No. WM-21(108)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1376.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सान्यो वेईंग सिस्टम्स, 48, हर्षिदया बेग सोसायटी शिव स्कूल के सामने, जनता नगर सड़क, घटलोडिया, अहमदाबाद-61 द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले "एस डब्ल्यू-15 के" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "सान्यो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/447 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृति मापी गेज प्रकार का भार सेल आधारित (टेबल टाप प्रकार) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 15 कि.ग्रा. और न्यूनतम क्षमता 50 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टॉपिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक "ई" मान के लिए 100 से 5000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(170)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1376.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "SW-15K" series of high accuracy (Accuracy class-II) and with brand name "SANYO" (hereinafter referred to as the said model), manufactured by M/s. Sanyo Weighing Systems, 48, Harsiddhabaug Society, Opp. Shiv School, Jantānagar Road, Ghatlodia, Ahmedabad-61 and which is assigned the approval mark IND/09/2004/447;

The said model (see the figure given below) is strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 15 kg. and minimum capacity of 50 g. The verification scale interval (e) is 1 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply;



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity up to 50 kg. and with number of verification scale interval (n) in the range of 100 to 5000 for 'e' value of 1 mg to 50 mg and with number of verification scale interval (n) in the range of 5000 to 50000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(170)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1377.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सान्यो वेईंग सिस्टम्स, 48, हर्षिदया बेग सोसायटी शिव स्कूल के सामने, जनता नगर सड़क, घटलोडिया, अहमदाबाद-61 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "एस डब्ल्यू-10 के" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "सान्यो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/448 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृति मापी गेज प्रकार का भार सेल आधारित (टेबल टाप प्रकार) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि.ग्रा. और न्यूनतम क्षमता 20 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टॉपिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10000 तक के रेंज में मापमान (एन) अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(170)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1377.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Table top type) weighing instrument with digital indication of "SW-10K" series of medium accuracy (Accuracy class-III) and with brand name "SANYO" (hereinafter referred to as the said model), manufactured by M/s. Sanyo Weighing Systems, 48, Harsiddhabaug Society, Opp. Shiv School, Jantanagar Road, Ghatlodia, Ahmedabad-61 and which is assigned the approval mark IND/09/2004/448;

The said model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 10 kg. and minimum capacity of 20 g. The verification scale interval (e) is 1 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. and with verification scale interval (n) in the range of 100 to 10000 for 'e' value of 100 mg to 2g or with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5 g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the said approved model has been manufactured.

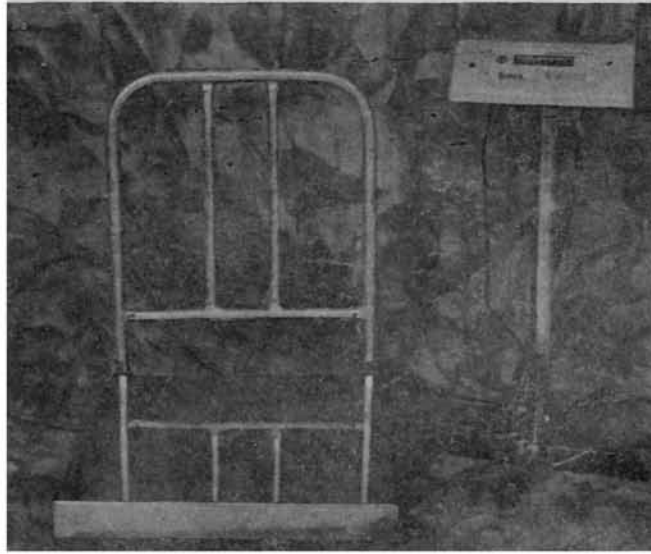
[F. No. WM-21(170)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1378.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सान्यो वेईंग सिस्टम्स, 48, हर्षिदया बेग सोसायटी शिव स्कूल के सामने, जनता नगर सड़क, घटलोडिया, अहमदाबाद-61 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एस डब्ल्यू एस-150 के" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "सान्यो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/449 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल (ऊपर दी गई आकृति देखें) विकृति मापी गेज प्रकार का भार सेल आधारित (प्लेटफार्म प्रकार) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 150 कि. ग्रा. और न्यूनतम क्षमता 500 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 10 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो और 100 कि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में, मापमान (एन) अंतराल सहित 50 कि.ग्रा. से ऊपर और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

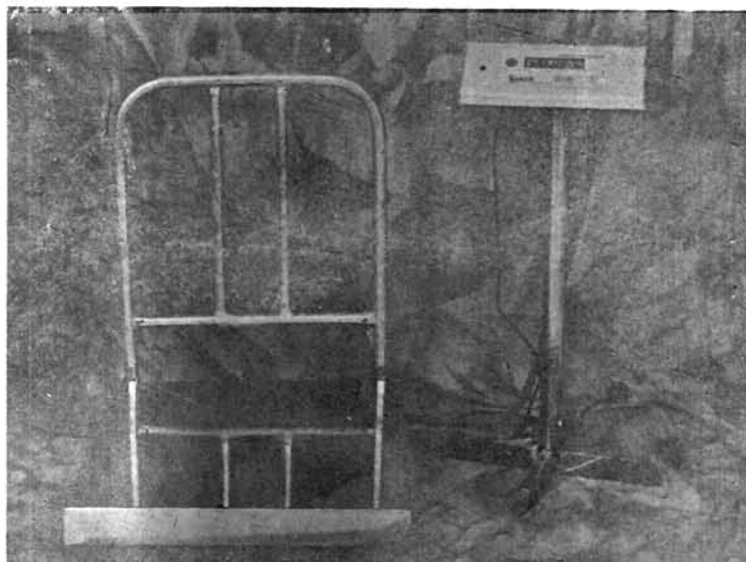
[फा.सं० डब्ल्यू एम-21(170)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1378.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (*See the figure given below*) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic (Platform type) weighing instrument with digital indication of "SWS-150K" series of high accuracy (accuracy class-II) and with brand name "SANYO" (herein referred to as the said model), manufactured by M/s Sanyo Weighing Systems, 48, Harsiddhabaug Society, Opp. Shiv School, Jantanagar Road, Ghatlodia, Ahmedabad-61 and which is assigned the approval mark IND/09/2004/449;



The said model (see the figure given above) is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 150kg and minimum capacity of 500g. The verification scale interval (e) is 10g. It has a tare device with 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 1000 kg with verification scale interval (n) in the range of 5000 to 50000 for 'e' value of 100 g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

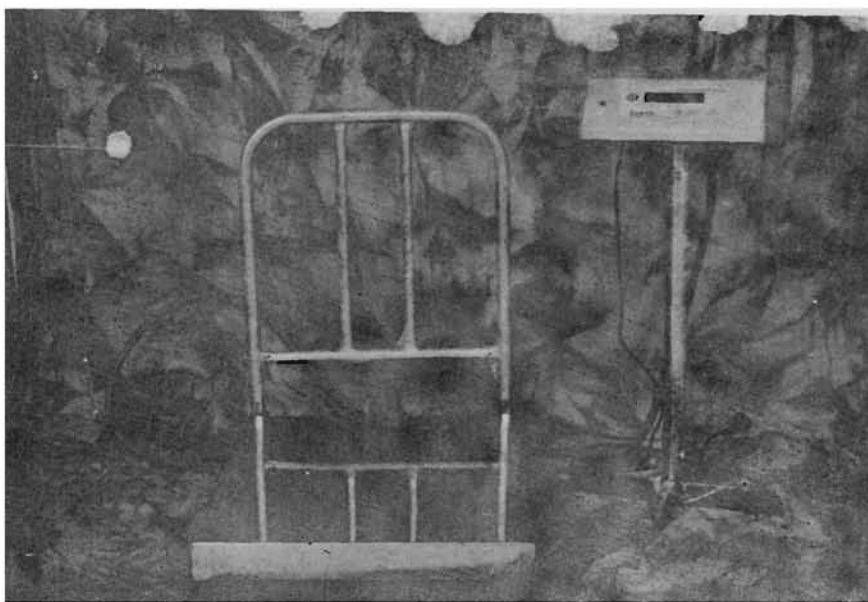
[F. No. WM-21(170)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1379.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सान्यो वेईंग सिस्टम्स, 48, हर्षिदा बेग सोसायटी शिव स्कूल के सामने, जूनता नगर सड़क, घटलोडिया, अहमदाबाद-61 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-III) वाले "एस डब्ल्यू एस-200 के" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "सान्यो" है (जिसे इसमें इससे पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/450 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल (ऊपर दी गई आकृति देखें) विकृति मापी गेज प्रकार का भार सेल आधारित (प्लेटफार्म प्रकार) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 200 कि. ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 20 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में, मापमान (एन) अंतराल सहित 50 कि.ग्रा. से ऊपर और 500 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

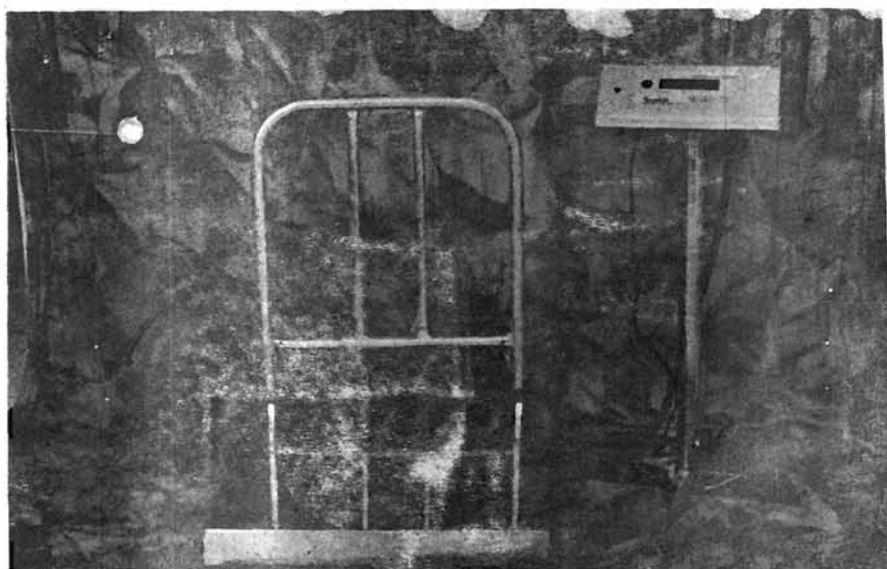
[फा. सं० डब्ल्यू एम-21(170)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1379.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of, the self indicating non-automatic (Platform type) weighing instrument with digital indication of "SWS-200K" series of medium accuracy (Accuracy class-III) and with brand name "SANYO" (herein referred to as the said model), manufactured by M/s Sanyo Weighing Systems, 48, Harsiddhabaug Society, Opp. Shiv School, Jantanagar Road, Ghatlodia, Ahmedabad-61 and which is assigned the approval mark IND/09/2004/450;



The said model (see the figure given above) is a strain gauge type load cell based weighing instrument with a maximum capacity of 200kg and minimum capacity of 1kg. The verification scale interval (e) is 20g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230V and 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model is to cover the weighing instruments of same series with maximum capacity above 50 kg and up to 500 kg with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved model has been manufactured.

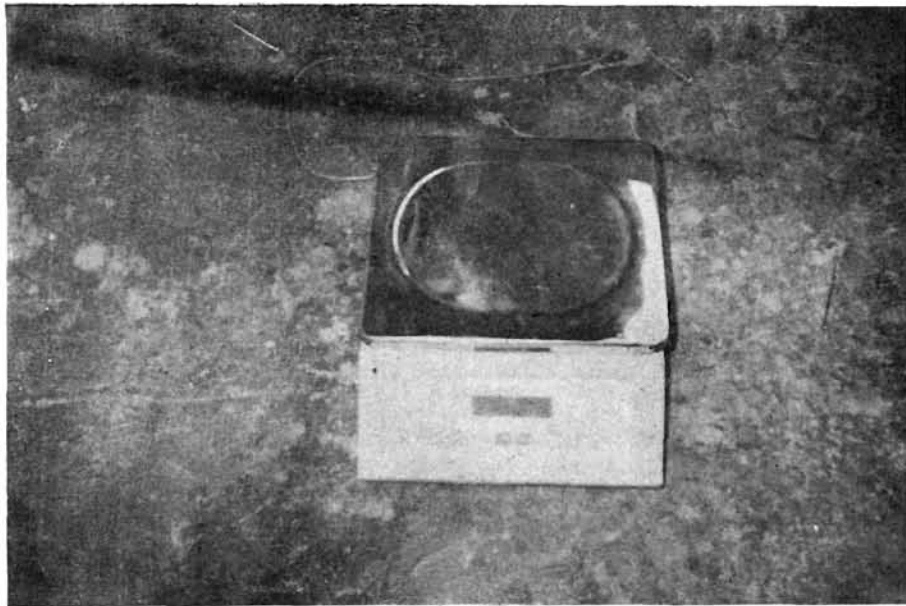
[F. No. WM-21(170)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1380.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मैक्स पावर इण्डिया, 11, हरिकृष्ण शापिंग सेंटर, काडिला अंडरब्रिज के पास, घोड़ासार, अहमदाबाद द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "एल-6 एम पी आई 30-टी" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "मैक्स पावर" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/392 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित (टेबल टाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में, सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(232)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1380.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "L-6MPI 30-T" series of medium accuracy (Accuracy class-III) and with brand name "MAX POWER" (hereinafter referred to as the said model), manufactured by M/s. Max Power India, 11, HariKrishna Shopping Centre, Near Cadila Underbridge, Ghodasar, Ahmedabad and which is assigned the approval mark IND/09/2004/392;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with 100 percent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V and 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

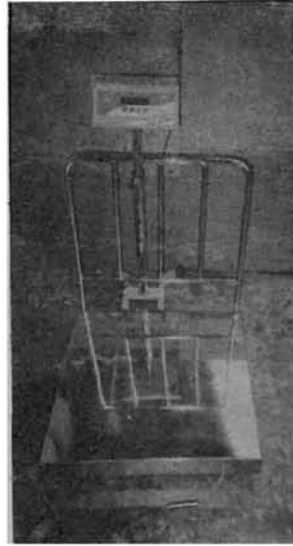
[F. No. WM-21(232)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1381.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मैक्स पावर इण्डिया, 11, हरिकृष्ण शापिंग सेंटर, काडिला अंडरब्रिज के पास, घोड़ासा, अहमदाबाद द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "एल-10 एम पी आई 1-टी पी" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "मैक्स पावर" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/393 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्ट्रामिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में, मापमान (एन) अंतराल सहित 50 कि. ग्रा. से अधिक और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^5 , 2×10^5 या 5×10^5 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(232)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1381.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "L-10 MPI 1-TP" series of medium accuracy (Accuracy class-III) and with brand name "MAX POWER" (hereinafter referred to as the said model), manufactured by M/s. Max Power India, 11, Harikrishna Shopping Centre, Near Cadila Underbridge, Ghodasar, Ahmedabad and which is assigned the approval mark IND/09/2004/393;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with 100 percent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230V and 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

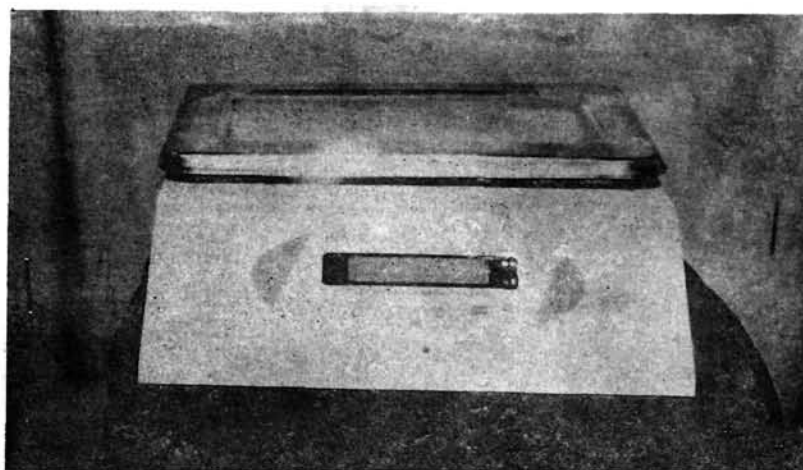
[F. No. WM-21(232)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का.आ. 1382.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैक्स कमल स्केल वर्क्स, 201 पदम नगर, दिल्ली-110 006 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "के टी टी" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टोप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "कमल" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/476 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (टेबल टोप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 12 कि. ग्रा. और न्यूनतम क्षमता 50 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक "ई" मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

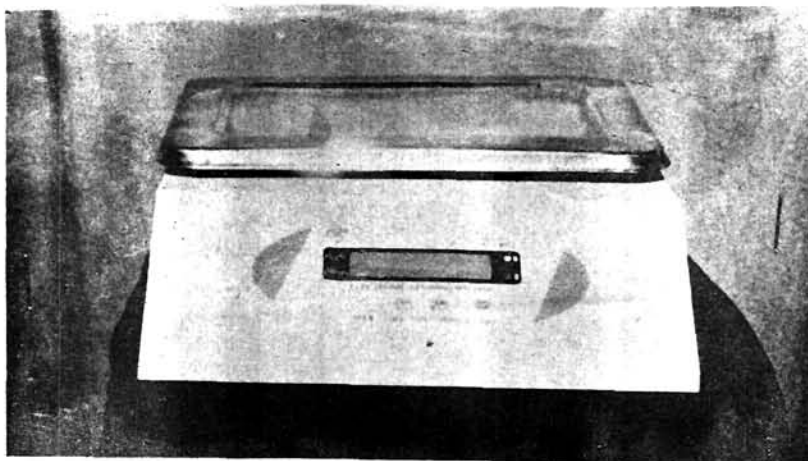
[फा.सं. डब्ल्यू एम-21(163)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1382.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of “KTT” series of high accuracy (Accuracy class-II) and with brand name “KAMAL” (hereinafter referred to as the said model), manufactured by M/s. Kamal Scale Works, 201, Padam Nagar, Delhi-110 006 and which is assigned the approval mark IND/09/2004/476;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 12kg and minimum capacity of 50g. The verification scale interval (e) is 1g. It has a tare device with 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230V and 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(163)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

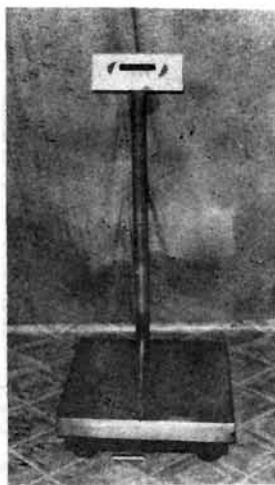
नई दिल्ली, 30 मार्च, 2005

का०आ० 1383.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कमल स्केल वर्क्स, 201 पदम नगर, दिल्ली-110006 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "के पी पी" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "कमल" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/477 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 500 कि.ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है, सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यकलात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टैमिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्ध भी किया जाएगा।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. से अधिक और 1000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(163)/2003]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

New Delhi, the 30th March, 2005

S.O. 1383.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "KPP" series of medium accuracy (Accuracy class-III) and with brand name "KAMAL" (hereinafter referred to as the said model), manufactured by M/s. Kamal Scale Works, 201, Padam Nagar, Delhi-110006 and which is assigned the approval mark IND/09/2004/477;

The said model (figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500kg. and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternate current power supply.

In addition to sealing stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and upto 1000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g. or more and with 'c' value of 1×10^k , 2×10^k or 5×10^k , where K is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

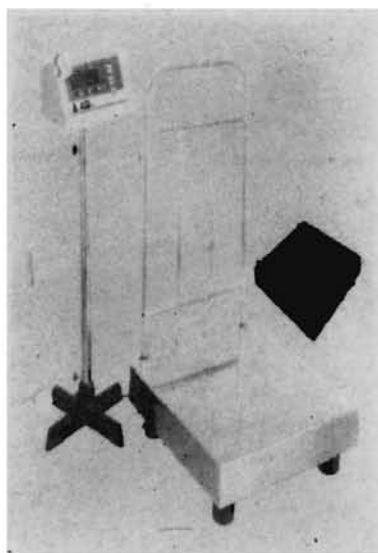
[F. No. WM-21(163)/2003]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का०आ० 1384.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आशीष इलैक्ट्रानिक्स, 11/83, सावरकुण्डला नगर, जी एच बी, खोखारा, अहमदाबाद-380026 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एस ई पी टी" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "ए एस आई-डी आई जी आई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/551 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृत गेज प्रकार का भार सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है, सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश-उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

रखरखाव प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अन्तराल (एन) सहित 50 कि.ग्रा. से 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

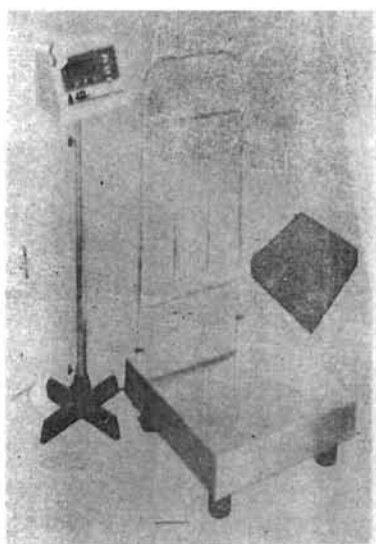
[फा.सं. डब्ल्यू एम-21(143)/2002]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1384.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Platform type) weighing instrument with digital indication of "AE-PT" series of medium accuracy (Accuracy class-III) and with brand name "ASI-DIGI" (herein referred to as the said model), manufactured by M/s. Ashish Electronics, 11/83, Savarkundla Nagar, G.H.B. Khokhara, Ahmedabad-380026 and which is assigned the approval mark IND/09/2003/551;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 300kg. and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 50 kg to 1000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , K being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

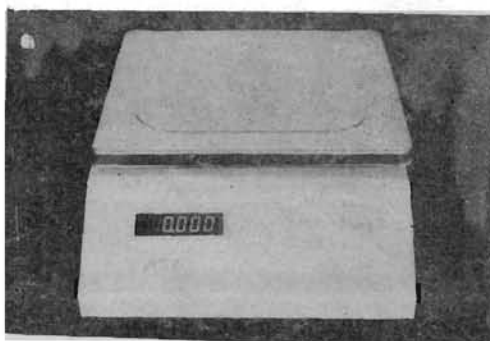
[F. No. WM-21(143)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का०आ० 1385.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आशीष इलैक्ट्रॉनिक्स, 11/83, सावरकुण्डला नगर, जी एच बी, खोखारा, अहमदाबाद-380026 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ए ई-टी टी" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "एसआई-डीआई जीआई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/550 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है, सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टैम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

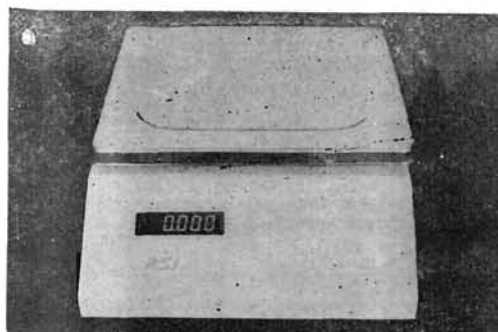
[फा.सं. डब्ल्यू एम-21(143)/2002]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005.

S.O. 1385.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Table top type) weighing instrument with digital indication of "AE-TT" series of medium accuracy (accuracy class-III) and with brand name "ASI-DIGI" (herein referred to as the said model), manufactured by M/s. Ashish Electronics, 11/83, Savarkundla Nagar, G.H.B. Khokhara, Ahmedabad-380026 and which is assigned the approval mark IND/09/2003/550;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

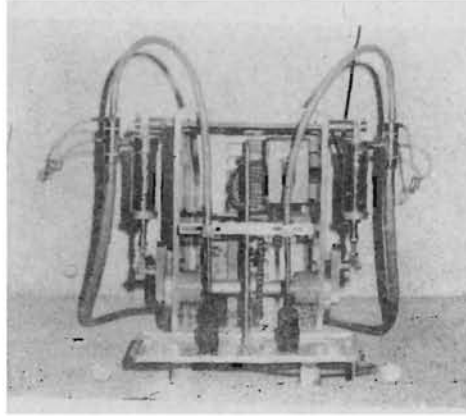
[F. No. WM-21(143)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 30 मार्च, 2005

का०आ० 1386.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मीना फार्मा इक्विपमेंट्स, 113, न्यू मोडेला इंडस्ट्रीयल एस्टेट, ऑटोमेटिक इलैक्ट्रिक कंपनी के पीछे, पड़वाल नगर, वागले एस्टेट, थाणे-400604 (महाराष्ट्र) "एमपीई" शृंखला के स्वचालित आयतनात्मक भरण मशीन (पिस्टन फिलर प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "एमपीई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/11 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक स्वचालित आयतनात्मक भरण मशीन (पिस्टन फिलर प्रकार का) है। इसकी अधिकतम क्षमता 5 लीटर और न्यूनतम क्षमता 1 मिलीलीटर है। इसकी भरण दर 30 भरण प्रति मिनट है मशीन को फार्मा कीटाणुनाशक, सौन्दर्य प्रसाधन, तेल, तरल नील इत्यादि जैसे विसर्कोस द्रव उत्पादों को मापने के लिए डिजाइन किया गया है। मशीन तीन फेज ए.सी. 440 वोल्टस् या एकल फेज 230 वोल्टस् और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत् प्रदाय पर कार्य करती है।

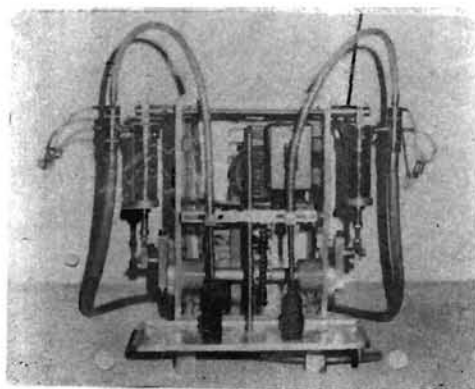
[फा.सं. डब्ल्यू एम-21(245)/2004]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th March, 2005

S.O. 1386.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of automatic volumetric filling machine (Piston filler type) of 'MPE' series with brand name "MPE" (herein referred to as the said model), manufactured by M/s. Meena Pharma Equipments, 113, New Modella Industrial Estate, Behind Automatic Electric Company, Padwal Nagar, Wagle Estate, Thane-400604, Maharashtra and which is assigned the approval mark IND/09/2005/11;



The said model is an automatic volumetric filling machine (Piston filler type). Its maximum capacity 5 litre and minimum capacity is 1ml. It has a fill rate of 20 fills per minute. The machine is designed for products to be measured viscous liquid like Pharma, Pesticides, Cosmetics, Oils, liquid blue etc. It operates on three phase AC 400 Volts or single phase 230 Volts, and 50 Hertz alternate current power supply.

[F. No. WM-21(245)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

नई दिल्ली, 11 अप्रैल, 2005

का. आ. 1387.—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा-3 की उपधारा (3) (खण्ड-ग) द्वारा प्रदत्त की गई शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निम्नलिखित अधिकारियों को तेल उद्योग विकास बोर्ड के सदस्य के रूप में, उनके सामने दर्शायी गई अवधि के लिए, या अगले आदेश जारी होने तक, जो भी पहले हो, नियुक्त/पुनर्नियुक्त करती है:-

	से	तक
1. श्री एस. बहुरिया, अध्यक्ष एवं प्रबंध निदेशक, इंडियन आयल कॉर्पोरेशन लि०	1.3.2005	28.2.2007
2. श्री बी एम बंसल, निदेशक अनुसंधान एवं विकास, इंडियन आयल कॉर्पोरेशन लि०	1.3.2005	28.2.2007

[फा. सं. जी-35012/7/2001-वित्त-II]

के.पी.के. नम्बीसन, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 11th April, 2005

S. O. 1387.—in exercise of the powers conferred by Clause (c) of Sub-section (3) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the central Government hereby appoints/re-appoints the following officers as Members of the Oil Industry Development Board for the period shown against their names or until further orders, whichever is earlier:

		From	To
1.	Shri S. Behuria, CMD, IOCL	1/3/2005	28/2/2007
2.	B.M. Bansal, Director (R&D), IOCL	1/3/2005	28/2/2007

[No. G-35012/7/2001-Fin.-II]

K.P.K. NAMBISSAN, Under Secy.]

नई दिल्ली, 11 अप्रैल, 2005

का. आ. 1388.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मुन्द्रा (गुजरात) से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री शिवदत्त गौड़, सक्षम प्राधिकारी, मुन्दा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन परियोजना, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, डी-7 लालबहादुर नगर (पूर्व) क्लार्क्स आमेर होटल के सामने, जवाहरलाल नेहरू मार्ग, मालवीय नगर, जयपुर-302017 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : मारवाड़ जंक्शन जिला : पाली राज्य : राजस्थान					
क्रम सं.	गाँव का नाम	खसरा सं.	क्षेत्रफल		
1	2	3	हेक्टेयर	एयर	वर्ग मीटर
1.	कोलपुरा	297	0	03	76
		284(स.रास्ता)	0	00	50
		278	0	06	38
2.	गुडा केसरसिंह	552	0	01	92
		546	0	02	95
3.	बडी	544/341	0	03	87
		360	0	02	35
		366	0	01	93
		470	0	04	73
		181	0	02	13
		180	0	01	19
		165	0	03	55
4.	माण्डा	1506	0	04	71
		1452	0	16	01
		1446	0	03	61
5.	कण्डालिया	503	0	00	33

[फा. सं. आर-31015/47/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 11th April, 2005

S. O. 1388.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mundra (Gujarat) to Delhi, a pipeline should be laid by Hindustan Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule, may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Shivdutt Gaur, Competent Authority, Mundra-Delhi petroleum product pipeline Project, Hindustan Petroleum Corporation Limited, D-7, Lal Bahadur Nagar (East), Opp. Clarks Amer Hotel, Jawaharlal Nehru Marg, Malviya Nagar, Jaipur – 302017 (Rajasthan)

SCHEDULE

Tehsil : MARWAR JUNCTION			District : PALI		State : RAJASTHAN	
Sr. No.	Name of the Village	Khasara No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
1. KOLPURA		297	0	03	76	
		284 (G/L Cart Track)	0	00	50	
		278	0	06	38	
2. GUDA KESHARSINGH		552	0	01	92	
		546	0	02	95	
3. BADI		544/341	0	03	87	
		360	0	02	35	
		366	0	01	93	
		470	0	04	73	
		181	0	02	13	
		180	0	01	19	
		165	0	03	55	
4. MANDA		1506	0	04	71	
		1452	0	16	01	
		1446	0	03	61	
5. KANTALIYA		503	0	00	33	

[No. R-31015/47/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 12 अप्रैल, 2005

का. आ. 1389.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 3302, तारीख 16 दिसम्बर, 2004 द्वारा राजस्थान राज्य में कोयली - सिद्धपुर - सांगानेर से अजमेर तक इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पेट्रोलियम उत्पाद के परिवहन के लिए पाइपलाइन बिछाई जाने के प्रयोजन के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट राजस्थान राज्य के तहसील अजमेर के ग्राम दौराई की भूमि में उपयोग का अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ साधारण जनता को तारीख 18 जनवरी, 2005 को उपलब्ध करा दी गई थी;

और पाइपलाइन बिछाने के संबंध में सक्षम प्राधिकारी को जनता से कोई आक्षेप प्राप्त नहीं हुआ है ।

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि पाइपलाइन बिछाने के लिए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है ।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि पाइपलाइन बिछाने के संबंध में उपयोग का अधिकार इस घोषणा के प्रकाशन के तारीख को केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील : अजमेर

जिला : अजमेर

राज्य : राजस्थान

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
दौराई	1652	0	00	80
	1648	0	07	40
	1647	0	04	40
	1641	0	01	60

[फा. सं. आर-25011/2/2004-ओ.आर-1]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 12th April, 2005

S. O. 1389.—Whereas by the notification of the Government of India, in the Ministry of Petroleum and Natural Gas No. S.O. 3302, dated 16th December, 2004 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land in Village : Dourai, Tehsil : Ajmer in Rajasthan State, specified in the schedule appended to that notification, for the purpose of laying Pipeline for the transportation of Petroleum Product from Koyali - Sidhpur - Sanganer to Ajmer in the State of Rajasthan by the Indian Oil Corporation Limited ;

And whereas, copies of the said gazette notification were made available to the general public on dated 18th January, 2005;

And whereas, No objection have been received by the Competent Authority from the public regarding the laying of the pipeline.

And whereas, the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas, the Central Government after considering the said report and on being satisfied that said land is required for laying pipeline has decided to acquire the right of user therein.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline.

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vests from the date of publication of this declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Ajmer

District : Ajmer

State : Rajasthan

Name of Village	Khasara No.	Area		
		Hectare	Are	Sq.mtr.
1	2	3	4	5
Dourai	1652	0	00	80
	1648	0	07	40
	1647	0	04	40
	1641	0	01	60

[No. R-25011/2/2004-O.R.-I]
S. K. CHITKARA, Under Secy.

नई दिल्ली, 12 अप्रैल, 2005

का. आ. 1390.— केन्द्रीय सरकार ने पेट्रोलियम और प्राकृतिक गैस मंत्रालय के का. आ. 3304 दिनांक 20.12.2004 द्वारा पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के अधीन अधिसूचना प्रकाशित कर, ब्यावर से चित्तौड़गढ़ तक पेट्रोलियम उत्पादों के परिवहन के लिए “सिद्धपुर-सांगानेर पाइपलाइन से चित्तौड़गढ़ तक ब्रान्च लाईन” के कार्यान्वयन हेतु एक शाखा पाइपलाइन बिछाने के लिये उक्त अधिसूचना में विनिर्दिष्ट तहसील ब्यावर, जिला अजमेर, राजस्थान राज्य की भूमि अधिसूचित की थी।

और उक्त अधिसूचना की प्रतियाँ जनता को दिनांक 18.01.2005 तक उपलब्ध करा दी गई थी ।

और उक्त अधिनियम की धारा 6 की उप-धारा (1) के अनुसरण में सक्षम प्राधिकारी, राजस्थान, ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ।

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है ।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाता है ।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील : ब्यावर		जिला: अजमेर		राज्य : राजस्थान	
गांव का नाम	खसरा सख्या	क्षेत्रफल			
		हेक्टेयर	एयर	वर्ग मीटर	
1	2	3	4	5	
सेंसपुरा	313	0	00	20	
	314	0	10	70	
	318	0	04	70	
	478	0	00	80	
	479	0	04	80	
लसाडिया	145	0	02	90	
	144	0	02	20	
	147/1	0	03	10	
	148	0	06	30	
	149/1	0	04	70	
	152	0	07	00	
	153	0	01	60	
	154	0	00	20	
	151	0	04	90	
	665	0	07	00	
	159	0	00	70	
	661	0	01	10	
	662	0	03	20	
	663	0	02	50	
	664	0	01	90	
	650	0	03	70	
	648	0	04	10	
	647	0	04	20	
	646	0	02	80	
	645	0	03	50	
	644	0	01	90	
	640	0	04	70	
	639	0	00	60	
	636	0	05	80	
	632	0	01	80	
	631	0	01	30	
	630	0	01	50	

तहसील : ब्यावर		जिला: अजमेर		राज्य : राजस्थान	
गांव का नाम	खसरा सख्या	क्षेत्रफल			
		हेक्टेयर	एयर	वर्ग मीटर	
1	2	3	4	5	
	629	0	01	60	
	628	0	04	90	
	627	0	04	50	
	246	0	02	00	
	245	0	04	60	
	244	0	04	80	
	247	0	00	60	
	248	0	05	70	
	249	0	04	50	
	320	0	06	30	
	322	0	04	60	
	321	0	05	50	
	296	0	01	10	
	297	0	00	50	
	295	0	04	70	
	298	0	00	20	
	294	0	05	00	
	293	0	03	10	
	290	0	02	00	
	285	0	07	20	
	284	0	00	80	
	278	0	06	70	
	279	0	02	00	
	407	0	03	30	
	408	0	03	30	
	409	0	00	20	
	415/1	0	04	70	
	416/1	0	03	20	
	416/2	0	01	20	
खिरनी खेड़ा	660	0	03	50	
	662	0	00	20	
	664	0	00	20	
	663/1	0	11	70	
	667	0	12	90	

तहसील : ब्यावर		जिला: अजमेर		राज्य : राजस्थान	
गांव का नाम	खसरा सख्या	क्षेत्रफल			
		हेक्टेयर	एयर	वर्ग मीटर	
1	2	3	4	5	
पाखरियावास	668	0	00	20	
	669	0	01	90	
	670	0	03	10	
	296	0	03	60	
	297	0	00	30	
	293	0	03	20	
	292	0	04	10	
	291	0	02	60	
	289	0	00	30	
	290	0	02	90	
	285	0	11	70	
	283	0	09	00	
	288	0	00	20	
	273	0	17	90	
	282	0	01	00	
	274/2	0	03	10	
	274/1	0	00	20	
	268	0	01	40	
	267	0	01	80	
	266	0	00	20	
	143	0	03	00	
	144	0	02	40	
	147	0	00	20	
	148	0	04	50	
	149	0	01	60	
	150	0	07	90	
	151	0	00	20	
	162	0	00	20	
	193	0	00	90	
	194	0	03	90	
	195	0	00	20	
	196	0	00	20	
	192	0	03	80	
	191	0	01	80	

तहसील : ब्यावर		जिला: अजमेर		राज्य : राजस्थान	
गांव का नाम	खसरा सख्या	क्षेत्रफल			
		हेक्टेयर	एयर	वर्ग मीटर	
1	2	3	4	5	
	197	0	00	40	
	190	0	05	20	
	189	0	06	00	
	186	0	02	90	
	187	0	02	60	
	165	0	00	40	
	619	0	01	20	
	172	0	04	00	
	636	0	04	10	
	634	0	00	20	
	635	0	04	50	
	690	0	05	80	
	688	0	00	20	
	689	0	03	30	
	687	0	10	50	
	686	0	00	30	
	683	0	03	50	
	684	0	07	20	
	744	0	04	00	
	748	0	06	90	
	751	0	00	50	
	758	0	06	30	
	763	0	07	90	
	747	0	00	20	
	762	0	00	40	
	760	0	00	90	
	764	0	00	30	
	761	0	05	10	
बाडिया भाऊ	302	0	02	00	
	304	0	00	30	
	303	0	11	80	
	315	0	01	70	
	316	0	09	00	
	301	0	02	40	

तहसील : ब्यावर		जिला: अजमेर		राज्य : राजस्थान	
गांव का नाम	खसरा सख्या	क्षेत्रफल			
		हेक्टेयर	एयर	वर्ग मीटर	
1	2	3	4	5	
	324	0	00	20	
	317	0	02	50	
	331	0	00	20	
	328	0	00	20	
	330	0	06	20	

[फा. सं. आर-25011/27/2004-ओ.आर-1]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 12th April, 2005

S. O. 1390.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. number 3304 dated 20.12.2004 issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land in **Tehsil : Beawar, District : Ajmer** in the State of Rajasthan, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products in the State of Rajasthan from Beawar to Chittaurgarh in respect of "Branch Pipeline to Chittaurgarh from Sidhpur – Sanganer Pipeline" by the Indian Oil Corporation Limited

And whereas, copy of the said notification was made available to the general public on 18.01.2005

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vests from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil : BEAWAR		District : AJMER		State : RAJASTHAN	
Name of the Village	Khasara No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
SENSPURA	313	0	00	20	
	314	0	10	70	
	318	0	04	70	
	478	0	00	80	
	479	0	04	80	
LASARIYA	145	0	02	90	
	144	0	02	20	
	147/1	0	03	10	
	148	0	06	30	
	149/1	0	04	70	
	152	0	07	00	
	153	0	01	60	
	154	0	00	20	
	151	0	04	90	
	665	0	07	00	
	159	0	00	70	
	661	0	01	10	
	662	0	03	20	
	663	0	02	50	
	664	0	01	90	
	650	0	03	70	
	648	0	04	10	
	647	0	04	20	
	646	0	02	80	
	645	0	03	50	
	644	0	01	90	
	640	0	04	70	
	639	0	00	60	
	636	0	05	80	
	632	0	01	80	
	631	0	01	30	
	630	0	01	50	

Tehsil : BEAWAR		District : AJMER		State : RAJASTHAN	
Name of the Village	Khasara No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
	629	0	01	60	
	628	0	04	90	
	627	0	04	50	
	246	0	02	00	
	245	0	04	60	
	244	0	04	80	
	247	0	00	60	
	248	0	05	70	
	249	0	04	50	
	320	0	06	30	
	322	0	04	60	
	321	0	05	50	
	296	0	01	10	
	297	0	00	50	
	295	0	04	70	
	298	0	00	20	
	294	0	05	00	
	293	0	03	10	
	290	0	02	00	
	285	0	07	20	
	284	0	00	80	
	278	0	06	70	
	279	0	02	00	
	407	0	03	30	
	408	0	03	30	
	409	0	00	20	
	415/1	0	04	70	
	416/1	0	03	20	
	416/2	0	01	20	
KHIRANI KHERA	660	0	03	50	
	662	0	00	20	
	664	0	00	20	
	663/1	0	11	70	
	667	0	12	90	
	668	0	00	20	
	669	0	01	90	
	670	0	03	10	

Tehsil : BEAWAR		District : AJMER		State : RAJASTHAN	
Name of the Village	Khasara No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
PAKHARIYAWAS	296	0	03	60	
	297	0	00	30	
	293	0	03	20	
	292	0	04	10	
	291	0	02	60	
	289	0	00	30	
	290	0	02	90	
	285	0	11	70	
	283	0	09	00	
	288	0	00	20	
	273	0	17	90	
	282	0	01	00	
	274/2	0	03	10	
	274/1	0	00	20	
	268	0	01	40	
	267	0	01	80	
	266	0	00	20	
	143	0	03	00	
	144	0	02	40	
	147	0	00	20	
	148	0	04	50	
	149	0	01	60	
	150	0	07	90	
	151	0	00	20	
	162	0	00	20	
	193	0	00	90	
	194	0	03	90	
	195	0	00	20	
	196	0	00	20	
	192	0	03	80	
	191	0	01	80	
	197	0	00	40	
	190	0	05	20	
	189	0	06	00	
	186	0	02	90	

Tehsil : BEAWAR		District : AJMER		State : RAJASTHAN	
Name of the Village	Khasara No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
	187	0	02	60	
	165	0	00	40	
	619	0	01	20	
	172	0	04	00	
	636	0	04	10	
	634	0	00	20	
	635	0	04	50	
	690	0	05	80	
	688	0	00	20	
	689	0	03	30	
	687	0	10	50	
	686	0	00	30	
	683	0	03	50	
	684	0	07	20	
	744	0	04	00	
	748	0	06	90	
	751	0	00	50	
	758	0	06	30	
	763	0	07	90	
	747	0	00	20	
	762	0	00	40	
	760	0	00	90	
	764	0	00	30	
	761	0	05	10	
BADIYA BHAU	302	0	02	00	
	304	0	00	30	
	303	0	11	80	
	315	0	01	70	
	316	0	09	00	
	301	0	02	40	
	324	0	00	20	
	317	0	02	50	
	331	0	00	20	
	328	0	00	20	
	330	0	06	20	

श्रम मंत्रालय

नई दिल्ली, 16 मार्च, 2005

का.आ. 1391.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ग्रासिम इंडस्ट्रीज लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 389/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-03-2005 को प्राप्त हुआ था।

[सं. एल-29012/12/2004-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 16th March, 2005

S.O. 1391.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 389/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Grasim Industries Ltd., and their workman, which was received by the Central Government on 16-03-2005.

[No. L-29012/12/2004-IR (M)]

B.M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 27th December, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 389/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Grasim Industries Ltd. Grasim Cement Division(s) and their workman)

BETWEEN :

Sri palanisamy : I Party/Petitioner

And

The Joint President,
Grasim Industries Ltd.
Grasim Cement Division(s)
Reddipalayam Post.

APPEARANCE:

For the Workman : None

For the Management : M/s.Meenakshisundaram
& Dwarakanatham,
Advocates

AWARD

The Central Government. Ministry of Labour vide Order No. L-29012/12/2004-IR(M) dated 31-3-2004 has referred this Industrial dispute to this Tribunal for adjudication. The Schedule mentioned dispute in that order is :

“Whether the claim of Shri Palanisamy for continuity of service, regularisation with back wages and all benefits against the management of Grasim Industries Ltd., Cement Division (South) Reddipalayam. Ariyalur is legal and justified? If not, to what relief the workmen are entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 389/2004 and notices were issued to both the parties. Even after several notices, the Petitioner has not appeared before this Court and the Petitioner has not filed Claim Statement. The Respondent appeared through their advocate and filed Statement of Objection. Hence, the Petitioner is called absent and set ex-parte.

3. In the statement of objection, the II Party/Management has contended that the I Party/Workman was never an employee of the II Party/Management nor was the II Party/Management his employer. It is learnt that the I Party was employed as a Helper (unskilled) in various locations by one of the contractors of the II Party/Management. Further, the I Party through the union has raised industrial dispute against the contractors of Management for payment of bonus, minimum wages before this Tribunal in August, 2003 and the matter is still pending as I.D. No. 109/2003 and after admitting in that Industrial dispute that he was an employee of the contractor, he cannot now be heard to set up a new case that he is an employee of the II Party/Management. Before the minimum wages forum, though the Petitioner has filed an application against the II Party/Management and also contractor seeking to pay ‘E’ grade wages as per the Cement Wages Settlement dated 24-8-2000 and obtained the order. The said order was stayed by the High Court in W.P. No. 1613 & 1616 of 2004. Therefore, the Petitioner always considered himself as an employee of the contractor and not as of the II Party/Management and therefore, he cannot now be heard to claim that he is an employee of the II Party/Management. Hence, it prays that the claim may be dismissed with costs.

4. In these circumstances, the point for my consideration is :

“To what relief the Petitioner is entitled?”

Point :

5. Even after several notices, the Petitioner has not appeared before this Court nor filed his Claim Statement, therefore, the Petitioner is called absent and set ex-parte. The Respondent in its statement of objection clearly stated that there is no relationship of master and servant between them and Petitioner. Further, they have stated that the Petitioner and other workmen have raised a dispute against the contractors for payment of bonus and minimum wages in I.D. No. 109/2003. Under such circumstances, the Respondent contended that they have admitted in the said applications that they were employees of the contractors

and they cannot now turn around and say that they are employees of the II Party/Management.

6. I find much force in the contention of the Respondent because when the Respondent/ Management denies the relationship of master and servant between them and Petitioner, it is the bounden duty of the Petitioner to establish that there is a relationship of master and servant and they are entitled to the benefits of Industrial Disputes Act, 1947. In this case, the Petitioner has not appeared before this Court to establish his contention that he was an employee under the II Party/Management and entitled to the benefits of Industrial Disputes Act. Since he has not chosen to appear before this Tribunal to establish his case, I find the Petitioner is not entitled to any relief. No Costs.

7. The reference is disposed of accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th December, 2004.)

K. JAYARAMAN, Presiding Officer.

नई दिल्ली, 16 मार्च, 2005

का.आ. 1392.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शेवरोय बॉक्साइट माईन्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 34/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-03-2005 को प्राप्त हुआ था।

[सं. एल-43011/2/2002-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 16th March, 2005

S.O. 1392.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Shevaroy's Bauxite Mines and their workman, which was received by the Central Government on 16-03-2005.

[No. L-43011/2/2002-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 28th December, 2004

PRESENT: K. JAYARAMAN,
Presiding Officer

Industrial Dispute No. 34/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Shearoy's Bauxite Mines and their workman)

BETWEEN:

The General Secretary : I Party/Claimant
Shevaroy's General
Employees Union, Yercaud

AND

The Manager, : II Party/Management
Shevaroy's Bauxite Mines,
Yercaud

APPEARANCE:

For the Claimant : M/s. S. Vaidyanathan &
M. Rajendran, Advocates
For the Management : M/s. T.S. Gopalan & Co.
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-43011/2/2002-IR(M) dated 17-3-2003 has referred this Industrial Disputes to this Tribunal for adjudication. The Schedule mentioned dispute in that order is:

"Whether the action of the management of Shevaroy's Bauxite Mines, Yercaud in denying wages to Shri F. Arulandam at par with other drivers of the organisation is justified? If not, to what relief he is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 34/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:

The Petitioner Union expounds the cause of the concerned employee Sri F. Arulanandam who is working as a driver in the Respondent mines for the last seven years. The drivers who are working in Madras Aluminium Co. Ltd. are getting more salary than the concerned employee. Shevaroy's Bauxite Mines is a part of Madras Aluminium Co. Ltd. and the Respondent cannot discriminate among the same category of workmen who are doing similar work. The concerned employee was getting Rs. 1850/- as salary p.m. from the year 1998. After that the salary was not increased and hence the Union wrote a letter dated 15-5-2001 to Respondent/Management requesting for increase in wages of the concerned employee. Since they have not considered the same, the dispute was raised. Further, on 28-6-2000 the Petitioner Union has raised a dispute with regard to concerned employee that the management has not paid bonus, leave salary, over time and other fringe benefits. On 18-4-2001 a settlement under section 12(3) was arrived at between the parties wherein the concerned employee was given bonus, leave salary and other fringe benefits. Therefore, the action of the management in not extending the benefit of equal pay for equal work is illegal. Further, the management is adopting two sets of service conditions for the employees under one roof. The action of the Respondent/Management is unfair labour practice. Hence, the Petitioner Union prays

that the pay of Sri F. Arulanandam should be fixed at par with other drivers of organisation and also to direct the Respondent to pay the said wages to the concerned workman on and from the date of raising this dispute.

4. As against this, the Respondent in the Counter Statement contended that prior to 1961 one Shevaroy's Bauxite Product Company Ltd. was operating mines at Yercaud for raising aluminium bauxite. In the year 1968 Madras Aluminium Company Ltd. put up a plant at Mettur for manufacture of aluminium ingots. Later on, the extrusion plant was put for manufacture of aluminium wires. The project at Mettur was put up with idea of getting bauxite from Shevaroy's mines. The Madras Aluminium Company Ltd. was initially a joint sector with the Govt. of Tamil Nadu having substantial interest in the company. Ever since its inception, wages, allowances and other service conditions of workmen of bauxite mines were covered by settlements made with unions representing the workmen employed in mines and such settlements were made before Regional Labour Commissioner (Central). As far as aluminium factory at Mettur was concerned, workmen in the factory were governed by different settlements and such settlements were made before State conciliation machinery. The wages allowances and other service conditions of workmen of mines have always been different from those applicable to workmen at aluminium factory at Mettur. At the level of workmen, there was no transfer from aluminium factory to bauxite mines and *vice versa*. While the workmen of aluminium factory were paid a basic wage and variable dearness allowance linked to consumer price index number, the workmen of bauxite mines were paid wages linked to output of bauxite. The workmen of mines were never paid variable D.A. In the year 1992 aluminium factory came to a grinding halt and consequently the activities of mines also got curtailed and the Madras Aluminium Company Ltd. has become a sick company and was referred to BIFR. Subsequently on 22-9-94 a settlement was reached under section 12(3) of Industrial Disputes Act, before Special Deputy Commissioner of Labour, Govt. of Tamil Nadu, Chennai pursuant to which factory operations were resumed from April, 1995. The wages were also frozen for a period of three years. Following the settlement of aluminium factory on 25-10-94 settlement was concluded with regard to workmen employed in Shevaroy's Bauxite Mines. The said settlement was made before Assistant Labour Commissioner (Central) and under the settlement the workmen will be paid piece rate wages @ Rs. 18.50 per cubic meter bauxite produced and it was in operation for a period of three years. On 9-10-98 a settlement was concluded with Petitioner union and another aluminium Thozhilalar Sangam revising wages and other allowance of workmen of mines. Wages fixed by the settlement dated 9-10-98 were different from wages applicable to workmen of Madras Aluminium Factory at Mettur. In August, 2000 all the workmen of mines except the Petitioner offered to leave the services voluntarily provided they were given a reasonable financial assistance. Out of 29 workmen including the Petitioner who were on rolls of mines establishment, 28 workmen accepted the voluntary retirement scheme and left the services. After the voluntary retirement there was no work for the concerned workman

and out of sympathetic consideration, he is being retained in the employment. There can be no comparison between the drivers working in aluminium factory and the concerned workman. The workmen of mines were never treated on par with the workmen of aluminium factory at Mettur. Shevaroy's mines is a distinct and separate establishment. It is having separate standing orders. The appropriate Govt. for mines is Central Govt. The wages and allowances of workmen of mines and factory establishment have always been different. The workmen of Shevaroy's mines are not subject to transfer. Therefore, the question of discrimination does not arise. Further the services of the concerned workman are hardly utilised as the mines has at present no vehicle of its own. Hence, there could be no comparison with drivers working in aluminium factory at Mettur. Hence for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In the reply statement filed by the Petitioner Union, they have reiterated the claim made in the Claim Statement.

6. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in denying wages to the concerned employee Sri F. Arulanandam at par with other drivers of organisation is justified?"
- (ii) "To what relief the concerned employee is entitled?"

Point No. 1:—

7. The case of the Petitioner Union in this dispute is that the concerned workman Sri F. Arulanandam is working in Shevaroy's bauxite mines of the Respondent and the other drivers are working in Madras Aluminium Co. Ltd. (hereinafter referred to as MALCO). The Shevaroy's Bauxite Mines is a part of MALCO. On the other hand, the concerned employee was receiving only Rs. 1850/-, but the other drivers who are working under Respondent are getting salary of Rs. 8000/- per month. Therefore, the Respondent cannot discriminate among the same category of workmen who are doing similar work. But, on the other hand, the Respondent contended that though the Shevaroy's Bauxite Mines is owned by the Respondent/Management, the wages, allowances and other service conditions of workmen of mines have always been different from those applicable to workmen at Aluminium factory at Mettur. At the level of the workmen, there was no transfer from aluminium factory to bauxite mines and *vice versa*. While the workmen of aluminium factory were paid basic wages and variable dearness allowance linked to the consumer price index number, the workmen of mines were paid wages linked to the output of bauxite and the workmen of mines were never paid variable dearness allowance and therefore, there cannot be any comparison between the drivers working in aluminium factory and the concerned workman Sri F. Arulanandam working in mines. The workmen of mines never treated on par with the aluminium factory workmen at Mettur and each are covered by settlements separately. Shevaroy's Mines is a distinct and separate establishment having separate standing orders and the appropriate Govt. for mines is the Central Govt. and therefore, the question

of discrimination does not arise at all and the principle of equal pay for equal work will not be applicable in this case. Hence, the Respondent prays that the claim is to be dismissed with costs.

8. To substantiate their claim, the Petitioner Union has filed five documents and examined the concerned employee as WW1 and also the General Secretary of the Petitioner Union as WW2. Ex. W1 is the xerox copy of the settlement dated 19-1-96 under section 18(1) between the MALCO Ltd. and workers of MALCO. Ex W2 is the xerox copy of the letter from Petitioner union to Respondent/Management dated 11-8-2000. Ex. W3 is the memorandum of settlement under section 12(3) dated 18-4-2001 and Ex. W4 is the xerox copy of the letter from Petitioner Union to Respondent mines dated 15-5-2001 and Ex. W5 is the copy of the letter given by Respondent/Management to one Sri Balakrishnan appointing him as a driver. As against this, the Respondent/Management has examined one Mr. Murali, working as Assistant Manager in mines as MW1 and produced documents as Ex. M1 to M14. Ex. M1 to M8 are standing orders of MALCO factory and also settlements entered between the workmen working in Respondent factory and the management and also workmen in factory in staff category and the management respectively. Ex. M9 to M13 are copy of standing orders of MALCO mines and also 18(1) and 12(3) settlements between the mines workmen and also the Respondent/Management. Ex. M14 is the copy of salary certificate issued to Petitioner on 14-10-2004.

9. The learned counsel for the Respondent contended that the principle of equal pay for equal work is not always easy to apply and even the Supreme Court in so many cases have held that there are inherent difficulties in comparing and evaluating work done by the different persons in different organisations or even in the same organisation and it must depend upon the nature of work done and it cannot be judged by mere volume of work there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgement by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgement is made bonafide, reasonably on the intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. In this case, though the Petitioner Union contended that the work done by the concerned employee and employees of the factory are one and the same and while the Petitioner is receiving only Rs. 1850/- p.m., the factory drivers are getting Rs. 8000/- per month and even in the evidence, WW1 has clearly stated that he has not driven the lorry from mines to factory, on the other hand the persons appointed as drivers in factory are driving lorries from mines to the factory and thus, there are so many difference in the work between the factory driver and the mines driver. In this case, though the Petitioner was appointed on compassionate grounds, he has been appointed only to drive mines vehicles namely ambulance, jeep bulldozer and tractor and not to drive lorries from mines to the factory. On the other hand, it is also the

admission of the concerned employee as WW1 that drivers of the factory are driving lorry from the factory to mines and *vice versa*. Therefore, it cannot be compared that the work of the concerned employee and the work of the factory drivers are one and the same. Further, the factory drivers are governed by different settlements entered into between the workmen working in Respondent factory and the Respondent/Management, on the other hand, the mines workmen were governed by separate settlement entered into between the workmen employed in mines and the Respondent/Management. There are separate standing orders governing the workmen in mines and also workmen in the factory and therefore, at no stretch of imagination it can be said that the work done by the concerned employee and the drivers of the factory are doing the same set of work.

10. But, on the other hand, the learned counsel for the Petitioner contended that though the Respondent had taken a stand that the work of concerned employee, who is a driver in mines, and the work of drivers appointed in the factory are different and the concerned employee has not driven lorry from the factory to mines or mines to factory, in a case filed by the Compounder of the factory, who was transferred to mines, when questioned before the labour authorities, the stand taken by the Respondent/Management is that the mines at Yercaud namely bauxite mines at Yercaud can only be considered as a department of the factory situated at Mettur and the transfer is only from one department to another and from one plant to another. It is not a separate establishment and they further contended in that challenging transfer order, though according to Section 2(e) of the Act, the mines and factory have been treated as separate establishments, it cannot be otherwise because the appropriate Government for these two establishments are different and that the factory mines are one industrial establishment and though a separate standing order has been provided for mines, it was only because of legislative requirements but otherwise the mines at Yercaud is part and parcel of the establishment of the II Party/Management namely the factory at Mettur. Therefore, now only to dispute the contention of the Petitioner, they have taken a different stand in the Counter Statement and at the level of the workman, there was no transfer from bauxite mines to factory and *vice versa*. Further, even in settlement entered into on 19-9-96, a copy of the same is marked as Ex. W1, it is clearly stated that four drivers who are working in Yercaud will be transferred back to the factory, who had already been gone and therefore, the contention of the respondent that at the level of the workmen there is no transfer from bauxite mines to factory *vice versa* is false and further, after taking several steps by the Petitioner Union, the Respondent Management has voluntarily again re-fixed the salary of the Petitioner from Rs. 1850 to Rs. 2250 from 1-10-2004 and only to nullify the contention of the Petitioner, this wage fixation was unilaterally done by the Respondent/Management, hence it is not valid in law. It is the further contention of the Petitioner that though the Petitioner contended that there is separate standing orders and separate settlements entered into between the workmen of

mines and workman of factory, in none of the settlements, the salary of the drivers of mines have been fixed or agreed to. Though the Respondent/management has contended that the work done by the concerned employee and the drivers of the factory are different, they cannot establish the same before this Tribunal in what way the work done by the concerned employee, who is a driver in mines is different from that of the work done by the drivers of the factory. Except the allegation that the concerned employee has not drives the lorry from mines to the factory, they have not established any other fact to show that the work done by the concerned employee is different from that of the drivers of the factory. Under such circumstances, the principle of equal pay for equal work is applicable in this case and an award is to be passed in favour of the concerned employee.

11. On the other hand, the learned counsel for the Respondent cited three decisions, the first one is the judgement of Bombay High Court reported in 2003 1 LLN 87 MINING AND ALLIED MACHINERY CORPORATION WORKER'S UNION AND OTHERS Vs. MINING ALLIED MACHINERY CORPORATION LTD. AND OTHERS the 2nd judgement is reported in 1998 1 LLN 321 between STATE OF UTTAR PRADESH AND OTHERS and MINISTERIAL KARAMCHARI SANGH and the third judgement is reported in 2004 1 LLN 32 between CHAIRMAN-CUM-MANAGING DIRECTOR, NATIONAL TEXTILES CORPORATION LTD. AND OTHERS Vs. NTC (WPAP AND O) LTD. EMPLOYEES UNION AND OTHERS. In the first judgement, the Division Bench of the Bombay High Court while dealing with principle of equal pay for equal work held that "*Petitioners have not brought out any material to show that duties and functions exercised by the workmen in Regional Workshop at Nagpur are identical to that of the workman at Durgapur and hence the principle of equal pay for equal work is not applicable in the instant case. Moreover, the petition could not controvert the dissimilarities in duties and functions between the workmen of Regional Workshop at Nagpur and workman at Durgapur. Further, the Petitioners have failed to establish that scales of pay given to workmen at Durgapur and the workmen at Regional Workshop at Nagpur amounts to discrimination. When there has been a separate wages settlement arrived at between the workman of Regional Workshop at Nagpur and the company, it cannot be said that they are entitled to equal pay for equal work.*" In the second cited case, the Supreme Court has held that "*on facts, we have seen the mode of recruitment, qualification and promotion which are totally different in the case of appointment of lower division and upper division assistants in the secretariat and in the case of lower division and upper division assistants (clerical cadre) in the Directorate of Information. This grade is sufficient for fixing different scales. Impugned Office Memorandum gives convincing and acceptable reasons for retaining the pay scales of those lower and upper division assistants appointed in Directorate of Information prior to 1-4-1965. In the circumstances, we are of the view that none of the reasons given by High Court to issue Writ of Mandamus as prayed for can be sustained in law.*" In the third judgement, the

Supreme Court has held that "*the Committee found that the different identity of workers working in corporate offices and workers working in mills has always been maintained. The pay structures in two cadres had been different. The pay scales for staff in corporate offices were substantially better as compared to pay scales of staff working in mills and the two categories of employees were not performing equal work. When there was no equal work, there was no question of equal pay*". Relying on these decisions, the learned counsel for the Respondent contended that the Petitioner has not established before this Tribunal that the concerned employee who is appointed as a driver in mines has done the same work as that of the drivers at factory and therefore, the Petitioner is not entitled to claim any relief.

12. But, as against this, the learned counsel for the Petitioner contended that these decisions are distinguishable, in the sense, even in these judgements, it has clearly mentioned that equal pay must depend upon the nature of work done and it cannot be judged by mere volume of work there may be qualitative difference as regards reliability and responsibility and this itself is matter of degree and that there is an element of value judgement by those who are charged with the administration in fixing the scales of pay and other conditions of service. But, in this case, the Respondent has not established before this Court except saying that the concerned employee has not driven lorries from mines to factory with bauxite ore. Except this contention, there is no difference with regard to the work done by the concerned employee and the drivers appointed in the factory. Though the Respondent has stated that the four drivers of the factory who have been transferred from the factory to mines and though it is stated to safeguard their interest and also the pay parity, they have been paid the same salary as that of factory, it is not the case of the Respondent that drivers who have been transferred from the factory to mines have done more work or different work than that of the concerned employee. Therefore, the driver who was appointed in mines was doing the same work of driving vehicles as that of the factory drivers and therefore, there should not be any parity between the drivers appointed in mines and also drivers appointed in factory. It is his further argument in the degree of responsibility and reliability as mentioned in the judgements and therefore, these judgements relied on by the Respondent are not applicable to the facts of this case. It is his further contention that the Respondent cannot take approbate and reprobate at the same time when they have taken a stand before the High Court in Writ Petition challenging the order of transfer, having stated that factory at Mettur and Mines at Yercaud are one and the same establishment and they have also produced the common Profit & Loss Account and balance Sheet before the High Court to state that the employees of mines and factory are treated as belong to one single establishment and further they have argued that it is evident from 12(3) settlement signed recently dated 29-9-89 which applies to both employees at factory at Mettur and mines at Yercaud and it is the further argument of Respondent/Management that Mines at Yercaud was nothing but a department of factory at Mettur and cannot be considered

as a separate entity. But, now they have taken a different stand that they are different establishments and they are not inter-transferable from one establishment to another and the advocate for petitioner produced a copy of the judgement of High Court in W.P. No. 7056/90.

13. On consideration of the entire evidence in this case and also the rulings, I find some force in the contention of the learned counsel for the Petitioner because, it is not established before this Tribunal that the work done by the concerned employee who was appointed as a driver in the mines is different than that of the drivers appointed in factory, hence I find the principle of equal pay for equal work is applicable in the facts of this case. Further, it is not established before this tribunal that the duties and functions between the driver appointed in mines and the driver appointed in the factory are different, I find the work done by the concerned employee and the drivers appointed in factory are the same. Only because the workmen in factory and workmen in mines are governed by different settlements, it cannot be said that drivers in mines are doing separate work than that of drivers in the factory. Further from the settlements produced by the Respondent/Management with regard to settlement of mines, there is no fixation of salary with regard to salary of drivers. Under such circumstances, I find much force in the contention of the learned counsel for the Petitioner while contending that the concerned employee is doing the same work as that of the drivers in the factory. Therefore, I find this point in favour of the Petitioner Union.

Point No. 2.

The next point to be decided in this case is to what relief the Petitioner Union is entitled?

14. In view of my foregoing findings that the action of the Respondent/Management in denying wages to the concerned employee Sri F. Arulanandam at par with other drivers of the organization namely Factory at Mettur is not justified. Hence, I find the concerned employee is entitled to the relief as prayed for by the Petitioner Union. Ordered accordingly. No Costs.

15. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him corrected and pronounced by me in the open Court on this day the 28th December, 2004).

K. JAYARAMAN, Presiding Officer.

Witnesses Examined :

For the I Party/Claimant	: WW1 Sri F. Arulanandam WW2 Sri V. K. Nallamuthu
For the II Party/Management	: MW1 Sri K. M. Murali

Documents Marked :

For the I Party/Claimant :

Ex. No. Date	Description
W1 19-9-96	Xerox copy of the memorandum of Settlement 18(1).

W2 11-8-00	Xerox copy of the letter from Petitioner Union to Respondent/ Management
W3 18-4-01	Xerox copy of the 12(3) settlement
W4 15-5-01	Xerox copy of the letter from I Party Union to II Party/Management
W58-5-95	Xerox copy of the letter from Respondent/Management to Mr. Balakrishnan.

For the II Party/Management :

Ex.No. Date	Description
M1 22-1-67	Xerox copy of the certified standing Order of MALCO.
M2 21-8-85	Xerox copy of the memorandum of Settlement 12(3).
M3 2-9-85	Xerox copy of the Memorandum of Settlement 12(3).
M4 26-8-85	Xerox copy of the Memorandum of Settlement 12(3).
M5 29-9-89	Xerox copy of the Memorandum of Settlement 12(3).
M6 22-9-94	Xerox copy of the Memorandum of Settlement 12(3)
M7 27-7-98	Xerox copy of the Memorandum of Settlement 12(3).
M8 12-11-01	Xerox copy of the Memorandum of Settlement 12(3).
M9 17-3-66	Xerox copy of the certified standing orders of MALCO.
M10 12-12-85	Xerox copy of the settlement under section 18(1).
M11 18-12-85	Xerox copy of the settlement under section 12(3).
M12 11-3-90	Xerox copy of the settlement under section 18(1).
M13 25-10-95	Xerox copy of the settlement under section 12(3).
M14 14-10-04	Original salary certificate of Mr. Arulanandam.

नई दिल्ली, 17 मार्च, 2005

का.आ. 1393. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में एन. एम. डी. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 5/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-43011/5/92-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 17th March, 2005

S.O. 1393.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/94) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of M/s NMDC and their workman, which was received by the Central Government on 17-03-2005.

[No. L-43011/5/92-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/5/94

Presiding officer : Shri C. M. Singh

Shri G. A. Bannerjee,

Working President,

Hira Khanij Mazdoor Sansthan (AITUC).

Majhgawan Mine,

Diamond Mining Project,

Panna

... Union/workman

VERSUS

The General Manager,

NMDC Ltd.,

Diamond Mining Project,

Panna.

... Management

A W A R D

Passed on this 25 th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-43011/5/92-IR (Misc) dated 10-1-94 has referred the following dispute for adjudication by this tribunal :

“क्या प्रबंधतंत्र, एन. एम. डी. सी. लि., डायमंड माइनिंग प्रोजेक्ट, पन्ना (म. प्र.) के प्रबंधकों द्वारा कर्मचारियों के माह अक्टूबर 1991 के वेतन से एक दिन के वेतन की कटौती की जाने की कार्यवाही न्यायोचित है? यदि नहीं तो संबंधित कर्मचारियों किस अनुतोष के हकदार हैं?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. The workmen filed the statement of claim and thereafter the management filed written statement. The case was at the stage of evidence of the Union/workmen on 14-2-2005. But on the same date, the workmen inspite of sufficient service of notice, did not appear to adduce evidence. Prior to the said date, on several dates, the Union/workmen did not care to put in appearance for prosecuting the reference.

3. Under the above circumstances, it is very clear that the workmen have no interest in prosecuting the case. Therefore, No Dispute Award is passed without any order as to costs.

4. The copy of the Award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1394.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ (संदर्भ संख्या 37/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/51/2001-आई आर (सी एम-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1394.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the Management of Food Corporation of India and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/51/2001-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXUR

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. 37/2002

Sh. Gurdial Singh C/o General Secretary, Trade Union Council, Patiala.

... Applicant.

Versus

1. The Asstt. Manager (D), Food Corporation of India, Dharamkot.

2. The Sr. General Manager, Food Corporation of India R. O. Punjab, Sector 34, Chandigarh.

... Respondent.

REPRESENTATIVES :

For the workman : None.

For the management : Shri N. K. Zakhami.

A W A R D

Passed on 3-2-2005

The Central Government Ministry of Labour vide Notification No. L-22012/51/2001-IR (CM. II) dated 28th December, 2001 has referred the following dispute to this tribunal for adjudication :

“Whether the action of the management of Food Coporation of India in terminating the services of Sh. Gurdial Singh S/o Sh. Lal Singh on 15-11-1998 is legal and justified? If not, to what relief he is entitled to?”

2. Case repeatedly called. None has put up appearances on behalf of the workman. It appears that workman is not interested to persue with the present reference. In view of the above, since the workman is not interested to persue with the present reference, the reference is returned for want of prosection, Central Govt. be informed.

Chandigarh, 3-2-2005

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1395.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी. जी. आई. टी./एल. सी./आर./166/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/137/97-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1395.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. CGIT/LC/R/166/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of SECL and their workman, which was received by the Central Government on 17-03-2005.

[No. L-22012/137/97-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/166/98

Presiding officer : Shri C. M. Singh

The General Secretary,
Koyla Mazdoor Sabha,
Sohagpur Area,
Post Dhanpuri

Union/workman

VERSUS

The General Manager,
Sohagpur Area, SECL,
P O Dhanpuri, Distt. Shahdol

Management

AWARD

Passed on this 18th day of February, 2005

The Government of India, Ministry of Labour vide its Notification No. L-22012/137/97/IR. C-II dated 23-7-98 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the General Manager, Sohagpur Area of SECL in superseding Shri Shivanarayan Singh by promoting Shri R. K. Rai, Motichand Yadav and Mahesh Nath Chakravarthy to the post of Clerk Grade I w.e.f. 16-11-81 is legal and justified. If not, to what relief the workman is entitled?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 17-8-98. Since then 17 dates have been fixed for filing statement of claim by the Union/workmen. But the Union/workmen failed to appear and file the statement of claim in spite of sufficient service of notice on them. It clearly indicates that the Union/workmen have no interest in prosecuting the case and do not want to prosecute the reference.

3. Under the above circumstances, 'No Dispute Award' is passed without any order as to costs.

4. The copy of the Award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1396.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, बी. बी. एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ (संदर्भ संख्या 124/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-23012/1/2003-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1396.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 124/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the Management of BBMB and their workman, received by the Central Government on 17-03-2005.

[No. L-23012/1/2003-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH****CASE No. I D. 124/2004**

Kapil Dav C/o Secretary,
Bhakra Beas Employees Union,
BO 220, KV, Grid Sub Station,
BBMB Bamala,

—Applicant.

Versus

The Chief Engineer,
T. S. BBMB, SLDC Complex,
Sector-28, Chandigarh.

—Respondent

REPRESENTATIVES

For the workman : Workman in person.

For the management : Jyoti Kaushal for the management

AWARD

Passed on 18-2-2005

The Central Govt. Ministry of Labour vide notification No. L-23012/1/2003-IR(CM-II) Dated 3rd of March 2004 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of TS BBMB, SLDC Complex, Sector-28, Chandigarh in not considering the application of Shri Kapil Dev, Ji. Fitter for request transfer either to Delhi or Bhiwani and instead transferring him to some other station on the same request and denial of other benefits is legal and justified? If not, to what relief he is entitled?”

1. On the request of both the parties case taken up in Lok Adalat for settlement/disposal. Statement of A/R of workman recorded on SA. The representative of the workman made a statement to withdraw the present reference in the Lok Adalat as the case has been settled. In view of the Statement of the rep. of the workman and management having no objection the reference is returned to Central Govt. as withdrawn. Central Govt. be informed File be consigned to record.

Announced

18-2-2005

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1397.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, डब्ल्यू. सी. एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी. जी. आई. टी./एल. सी./आर./223/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/552/96-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1397.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. CGIT/LC/R/223/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of W C L and their workman, which was received by the Central Government on 17-03-2005.

[No. L-22012/552/96-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR****NO. CGIT/LC/R/223/98**

SHRI C. M. SINGH, Presiding Officer

The Presiding
Koyla Khadan Mazdoor Panchayat (HMS),
Shobapur Colony, Qr. No. 635,
Pathakhhera Area,
Distt. Betul (MP)

... Union/workman

VERSUS

The General Manager,
Western coalfields Ltd,
Pathakhhera Area,
PO Pathakhhera,
Distt. Betul (MP)

... Management

AWARD

Passed on this 18th day of February 2005

The Government of India, Ministry of Labour vide its Notification No. L-22012/552/96 IR. CM-II dated 28-9-98 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of WCL in not considering Shri Khemraj Malviya's age on the basis of Sirdar Mining Certificate is justified? If not, to what relief he is entitled to?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. In spite of sufficient service of notice on the workman, he failed to appear and file his statement of claim. It appears from the above that the workman has no interest in prosecuting the reference.

3. Under the above circumstances, No Dispute Award is passed without any order as to costs.

4. The copy of the Award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1398.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./110/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/544/96-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1398.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/110/98) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of SECL and their workman, which was received by the Central Government on 17-03-2005.

[No. L-22012/544/96-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/110/98

SHRI C. M. SINGH, Presiding officer

Shri N.L. Pandey, General Secretary,
Madhya Pradesh Koyla Mazdoor Sabha (HMS)
1591, Annapali Duplex,
Near Radhaswamy Satsang,
Napier Town, Jabalpur.

Shri G.R. Swamy,
Working President,
National Colliery Workers Federation,
Johilla Area Branch, PO Nowrozabad,
Distt. Shahdol.

Union/workmen

Versus

The Director (Personnel),
South Eastern coalfield Ltd.,
Seepat Road, Bilaspur (MP)

The General Manager,
Johilla Area of SECL,
PO Nowrozabad,
Distt. Shahdol

Management

AWARD

Passed on this 18th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/544/96/IR(C.II) dated 20-5-98 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the management of SECL Nowrozabad Sub Area of Nowrozabad, Distt Shahdol MP in issuing the notice in Form E vide letter dated 14-10-95 and making the following changes :

Wage including the period and mode of payment to Loader cum Dresser Miner of Nowrozabad colliery in respect of Lead, Lift and Tub Pushing which shall be paid on actual measurement as per the recommendation of NCWA V after deleting the following clause from the settlement dated 3/4-2-95.

It is further agreed that the allowances like lead and lift tub pushing shall be paid at flat rate to a distance of 150 feet lift and 400 fit empty tub pushin respectively as per recommendations of NCWA-I to NCWA-IV is justified. If not what relief the concerned workmen are entitled to?"

2. After the reference order was received, it was registered on 18-6-98 and notices were issued to the parties. In response of the notice, the workmen/Union, MP Koyla Mazdoor Sabha put in appearance through Shri Santosh on 2-11-99. On this date, the other Union National Colliery Workers Federation remained absent as none was present for it. Since then, several dates have been fixed for filing statement of claim but inspite of sufficient service of notice, the workmen/Union failed to appear and to file the statement of claim. It indicates that the workmen/Union have no interest in the case and does not want to prosecute this reference.

3. Under the above circumstances, No dispute Award is passed without any order as to costs.

4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1399.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./83/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/511/94-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1399.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/83/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the the Management of SECL and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/511/94-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/83/95

Shri C. M. Singh, Presiding Officer

The Dy. General Secretary,
National Colliery Workers Federation,
PO Kotma Colliery
Shahdol (MP)

... Union/workman

Versus

The General Manager,
Jamuna & Kotma Area of SECL,
PO Jamuna Colliery,
Distt. Shahdol (MP)

... Management

AWARD

Passed on this 18th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/511/94/IR(C.II) dated 16-5-95 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the General Manager, Jamuna & Kotma area of SECL in not providing employment to Shri Vimal Chand Jain, S/o Shri Babulal Jain to the post of Badli Tub Loader even after declaring Shri Vimal Chand Jain pass in the interview, declaring medically fit and imparting him vocational training for 3 weeks is legal and justified? If not, to what relief, Shri V.C. Jain is entitled?"

2. After the reference order was received, it was duly registered and notices were issued to the parties. The workman filed its statement of claim and the management filed its written statement. On 22-1-2004 the date fixed in the case, the case was at the stage of filing rejoinder and documents by the workman. Since the above date, the workman remained continuously absent on several dates till 14-2-2005 the last date fixed in the case. In this manner, the workman absented himself continuously for 8 dates

fixed in this case. This clearly shows that the workman has no interest in prosecuting the reference.

3. Under the above circumstances. No dispute Award is passed without any order as to costs.

4. The copy of the award be sent to Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1400.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, डब्ल्यू.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./69/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/126/98-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1400.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/69/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure. in the Industrial Dispute between the management of WCL and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/126/98-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/69/99

Shri C. M. Singh, Presiding Officer

The Secretary,
R.K.K.M.S. INTUC
PO Chandametta,
Distt. Chhindwara (MP)

... Union/workmen

Versus

The Manager,
E.D.C. Colliery,
WCL, PO Parasia,
Distt. Chhindwara (MP)

... Management

AWARD

Passed on this 18th day of February, 2005

1. *The Government of India, Ministry of Labour vide its Notification No. L-22012/126/98/IR(C. M.II) dated 27-1-99 has referred the following dispute for adjudication by this tribunal :*

“Whether the action of the management of Newton Sub Area of WCL, Pench Area, Distt. Chhindwara in dismissing the services of Shri Barelal, Timber Mistry w.e.f 8-9-95 is legal and justified? If not, to what relief the workman is entitled?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. In spite of sufficient service of notice on the workman, he failed to appear and file his statement of claim. It appears from the above that the workman has no interest in prosecuting the reference.

3. Under the above circumstances, No dispute Award is passed without any orders as to costs.

4. The copy of award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1401.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एन.एल.सी. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई (संदर्भ संख्या 305/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/66/2003-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1401.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 305/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Neyveli Lignite Corporation Limited and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/66/2003-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday the 3rd February, 2005

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 305/2004

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Neyveli Lignite Corporation Ltd. and their workmen)

BETWEEN:

The General Secretary. : I Party/Claimant
NLC Contract Mazdoor
Sangh

AND

The Director (Personnel) : II Party/Management
Neyveli Lignite
Corporation Ltd.,
Neyveli.

APPEARANCE:

For the Claimant : Mr. N. Elangovan,
General Secretary

For the Management : M/s. N.A.K. Sarma,
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-22012/66/2003-IR (CM-II) dated 30-1-2004 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the demand of NLC Contract Mazdoor Sangh for equal raise in the wages of contract workmen on par with the NLC Indcoserve Society Contract Workmen is legal and justified? If so, to what relief the workmen are entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 305/2004 and notices were issued to both the parties and the I Party entered appearance through Authorised Representative and II Party/Management entered appearance through their advocates and both sides filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows :—

Around 10,000 contract labourers are employed in NLC through 150 contractors. Even though the contractors who employ the labourers may get changed due to system of tender and awarding the contract to the person who quote lowest value of the contract and labourers remain the same and used to work under the successive contractors without any break. The Respondent/Corporation usually notifies the minimum rate of wages payable to workers employed through the contractors as well as through the INDCOSERVE Society every year. The raise in wages for workers employed both through contractors and INDCOSERVE up to the year 2001 was equal, whereas in 2002-03 the Respondent/Management fixed the rate wages arbitrarily and raise wages in the case of workers employed through INDCOSERVE workers than the raise in wages as that of contract workers. Therefore, the members of the Society are better placed as they were provided with various measures and benefits envisaged in various statutory provisions whereas the workers of contractors are not getting fair deal in the hands of contractors. The contract labourers were highly exploited by the contractors by all possible means : Minimum wages were not paid to those workers as notified by the Respondent/Management. Since the principal employer shows scant regard to statutory provisions relating to contract labourers like P.F. Act, Contract Labour (Regulation & Abolition) Act, ESI Act, Workmen's Compensation Act, the contractors are playing fraud with the lives of the workers by denying all benefits conferred on them. Therefore, in the interest of justice, fair play the Petitioner prays that that an Award may be passed directing the Respondent/Management to allow the benefits namely equal rise in wages for all categories, EPF deduction as per statute, issue of wage slip, employment card, facilities like housing, medical canteen and safety equipments to be extended, payment of minimum bonus as per Bonus Act, wage disbursement in the presence of authorised representative of employer, absorption of contract labourers in NLC on regular basis, minimum rate of wages to workers employed in horticulture, grant of conveyance allowance and uniforms and promotion on the basis of seniority.

4. As against this, the Respondent in its Counter Statement contended that the Claim Statement filed by the party is from a different entity which was neither a party to conciliation proceedings nor had raised any such dispute. The two trade unions namely NLC Contract Mazdoor Sangh and NLC Mazdoor Sangh/BMS are separate and have different registration numbers being 80/CDR and 398/SAT respectively. Therefore, the Claim Statement filed by the NLC Mazdoor Sangh/BMS is thus, non-est in the eye of law and NLC Mazdoor Sangh has no *locus standi* in these proceedings. Since the NLC Contract Mazdoor Sangh has not filed any Claim Statement, the subject reference

deserves to be dismissed. Hence, the Respondent prays to dismiss the dispute with costs.

5. In these circumstances, the points for my consideration are—

- “(i) Whether the demand of the NLC Contract Mazdoor Sangh for equal raise in wages of the contract workmen at par with NLC Indcoserve Society contract workmen is legal and justified?”
- “(ii) To what relief the concerned employees are entitled?”

Point No. 1 :—

6. The above Industrial Dispute is pending for more than one year. The above industrial dispute was adjourned for several hearings for examination of the Petitioner side. In this case, the Respondent/Management contended that the Claim Statement was filed by one union and the dispute was raised by another union and the Claim Statement filed by the union has no *locus standi* to file Claim Statement before this Tribunal for the reference made by the Central Govt. Any how, the case was adjourned for several hearings for examination of the Petitioner. But, neither the Petitioner Union nor representative of workmen appeared before this Tribunal for conducting the trial and therefore, the Petitioner has called absent and set *ex-parte* and orders were reserved.

7. Since the Petitioner Union has not chosen to come before this Tribunal to establish their claim, I am not in a position to come to a conclusion whether the concerned employees are entitled for raise in wages at par with the NLC Indcoserve Society workmen, and further no document was produced and no evidence was adduced before this Tribunal to substantiate their claim. Under such circumstances, I find the Petitioner union is not entitled to any relief as claimed by them.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 3rd February, 2005).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

On either side : Nil

नई दिल्ली, 17 मार्च, 2005

का.आ. 1402.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ (संदर्भ संख्या

143/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/271/2001-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1402.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 143/2002) of the Central Govt. Indus. Tribunal/Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/271/2001-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 143/2002

Sh. Ramesh Kumar
S/o Sh. Suraj Bhan, Village-Bhusli,
P.o. Bijna, Distt. Karhal.

... Applicant.

Versus

The Distt. Manager,
Food Corporation of India-Karnal.

... Respondent.

REPRESENTATIVES:

For the workman

None

For the management

: Sh. N. K. Zakhmi.

AWARD

(Passed on 31-1-2005)

The Central Govt. Ministry of Labour vide notification no. L-22012/271/2001-IR (CM-II) dated 25th July 2002 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Food Corporation of India, Karnal in terminating the services of Sh. Ramesh and others (List enclosed) is legal and justified? If not, to what relief they are entitled to?"

2. Case repeatedly called. None has put up appearance on behalf of the workmen despite repeated notices. It appears that workmen are not interested to pursue with the present reference. Regd. AD notices received back with the report that addressee left for job. In view of the

above, it appears that workmen got the job some where and are not interested, present reference is returned to the Central Government for want of prosecution. Central Government be informed. File be consigned to record.

Chandigarh.

1-1-2005.

RAJESH KUMAR, Presiding Officer.

नई दिल्ली, 17 मार्च, 2005

का.अ. 1403.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ (संदर्भ संख्या 39/2002, को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/79/2001-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1403.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 39/2002) of the Central Government. Indus. Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/79/2001-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 39/2002

Sh. Nasital Singh C/o General Secretary,
Trade Union Council, Patiala.

... Applicant.

Versus

1. The Asstt. Manager (D), Food Corporation of India, Dharamkot.

2. The Sr. Regional Manager, Food Corporation of India, R.O. Punjab, Sector-34, Chandigarh. ... Respondent.

REPRESENTATIVES:

For the workman : None
 For the management : Sh. N.K. Zakhmi.

AWARD

(Passed on 3rd February, 2005)

The Central Government Ministry of Labour *vide* notification No. L-22012/79/2001-IR (CM-II) dated 22nd February, 2002 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of FCI in terminating the services of Sh. Nasital Singh S/o Sh. Kapoor Singh, Watchman on 20-4-99 is legal and justified? If not, to what relief he is entitled to?"

2. None has put up appearance on behalf of workman despite repeated calls. It appears that workman is not interested to pursue with the present reference. In view of the above since workman is not interested to pursue with the present reference, the present reference is dismissed in default. Central Govt. be informed. File be consigned to record.

Chandigarh.

3-2-2005

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1404.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ (संदर्भ संख्या 40/2002 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/78/2001-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1404.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 40/2002) of the Central Government Industrial Tribunal-cum-Labour Court No I, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/78/2001-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE SHRI RAJESH KUMAR, PRESIDING
 OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
 TRIBUNAL-CUM-LABOUR COURT-I,
 CHANDIGARH.**

Case No. ID 40/2002

Sh. Angrej Singh, C/o General Secretary,
 Trade Union Council, Patiala.

... Applicant.

Versus

1. The Asstt. Manager (D), Food Corporation of India, Dharamkot.
2. The Sr. General Manager, Food Corporation of India, R.O. Punjab, Sector-34, Chandigarh.

... Respondent.

REPRESENTATIVES:

For the workman : None
 For the management : Sh. N.K. Zakhmi.

AWARD

(Passed on 3-2-2005)

The Central Government Ministry of Labour *vide* notification No. L-22012/78/2001-IR (CM-II) dated 1st March, 2002 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of FCI in terminating the services of Sh. Angrej Singh S/o Sh. Sudagar Singh, Chowkidar on 1-3-1999 is legal and justified? If not, to what relief the workman is entitled to?"

2. Case repeatedly called. None has put up appearance on behalf of the workman. It appears that workman is not interested to pursue with the present reference. In view of the above, present reference is returned to the Central Government be informed.

Chandigarh.

3-2-2005

RAJESH KUMAR, Presiding Officer.

नई दिल्ली, 17 मार्च, 2005

का.आ. 1405.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ (संदर्भ संख्या

38/2002 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/82/2001-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1405.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2002) of the Central Govt. Indus. Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/82/2001-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Case No. ID 38/2002

Sh. Pala Singh, C/o General Secretary, Trade Union Council, Patiala.

Applicant.

Versus

1. The Asstt. Manager (D), Food Corporation of India, Dharamkot.
2. The Sr. Regional Manager, Food Corporation of India, R. O. Punjab, Sector-34, Chandigarh.

Respondent

REPRESENTATIVES:

For the workman : None

For the management : Sh. N.K. Zakhmi

AWARD

Passed on 3rd February, 2005

The Central Govt. Ministry of Labour vide Notification No. L-22012/82/2001-IR (CM-II) dated 22nd February, 2002 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Food Corporation of India in terminating the services of

Sh. Pala Singh S/o Sh. Asha Singh. Chowkidar on 10-4-99 is legal and justified? If not, to what relief he is entitled to?”

2. None has put up appearance on behalf of the workman despite repeated calls. It appears that workman is not interested to persue with the present reference. In view of the above, since the workman is not interested to persue with the present reference, the same is returned to Central Govt. for want of prosecution. Central Govt. be informed.

Chandigarh.

3-2-2005

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1406.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई. टी./एल.सी/आर. 154/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-3-2005 को प्राप्त हुआ था।

[सं. एल-22012/13/97-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1406.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. CGIT/LC/R/154/98 of the Central Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of SECL and their workmen, received by the Central Government on 17-3-2005.

[No. L-22012/13/97-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/154/98

PRESIDING OFFICER: SHRI C. M. SINGH

The General Secretary,
Koyla Mazdoor Sabha,
Sohagpur Area of SECL,
Post Khera,
Distt. Shahdol

Union/workman

VERSUS

The Sub Area Manager,
Rajendra and Navgaon Sub Area
Of SECL,
Post Khera,
Distt. Shahdol (MP)

Management

AWARD

Passed on this 28th day of February, 2005

1. The Government of India, Ministry of Labour *vide* its Notification No. L-22012/13/97/IR(C. II) dated 21-7-98 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the Sub Area Manager, Rajendra and Navgaon Sub Area of SECL Sohagpur Area in superceeding Shri Jagdish Prasad Fitter Cat. II by promoting workmen Junior to him as fitter Cat. IV is legal and justified? If not, what relief the workman is entitled to?"

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 4-8-98. Since then 17 dates have been fixed for filing statement of claim by the workman/Union. but the workman/Union failed to appear and file the statement of claim in spite of sufficient service of notice on him. It clearly indicates that the workman/Union has no interest in prosecuting the case and does not want to prosecute the reference.

3. Under the above circumstances, No Dispute Award is passed without any order as to costs.

4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1407. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई. टी./एल.सी./आर. 163/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-3-2005 को प्राप्त हुआ था।

[सं. एल-22012/361/97-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O.1407. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. CGIT/LC/R/163/98) of the Central Govt. Industrial Tribunal-cum-Labour Court, Jabalpur as shown

in the Annexure in the Industrial Dispute between the management of SECL and their workmen, received by the Central Government on 17-3-2005.

[No. L-22012/361/97-IR (CM-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/163/98

SHRI C. M. SINGH, Presiding Officer

The Secretary,
SKMS Sohagpur Area,
PO Sanjay Koyla Nagar,
Distt. Shahdol

Union/workman

VERSUS

The Sub Area Manager,
Amlai Open Cast Mine of SECL,
PO Sanjay Koyla Nagar,
Distt. Shahdol (MP)

Management

AWARD

Passed on this 18th day of February, 2005

1. The Government of India, Ministry of Labour *vide* its Notification No. L-22012/361/97/IR CM. II dated 28-7-98 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the Sub Area Manager, Amlai Open Cast Mine Sohagpur Area of SECL in demoting Shri Kailash Kol, Driver from Category-5 to Category-2 is justified? If not, what relief the workman is entitled to?"

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 17-8-98. Since then 17 dates have been fixed for filing statement of claim by the workman/Union. But the workman/Union failed to appear and file the statement of claim in spite of sufficient service of notice on him. It clearly indicates that the workman/Union has no interest in prosecuting the case and does not want to prosecute the reference.

3. Under the above circumstances, No Dispute Award is passed without any order as to costs.

4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1408.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, डब्लू.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./103/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/62/95-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/103/03) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial dispute between the management of WCL and their workman, received by the Central Government on 17-03-2005.

[No. L-22012/62/95-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/103/03

Presiding Officer : SHRI C.M. SINGH

The General Secretary,
SKMS (AITUC), PO Eklehra,
Dist. Chhindwara

Union/Workman

VERSUS

The General, Manager,
WCL, Pench Area,
PO Parasia,
Distt. Chhindwara

Management

AWARD

Passed on this 18th day of February 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/62/95/IR C. II dated 22/9/98 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of General Manager, WCL in terminating the services of Shri Raju S/o Shri Kaliya is legal and justified? If not, to what relief the workman is entitled?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 5-10-98. Since then 12 dates have been fixed for filing statement of claim by the workman/Union. But the workman/Union failed to appear and file the statement of claim inspite of sufficient service of notice on him. It clearly indicates that the workman/Union has no interest in prosecuting the case and does not want to prosecute the reference.

3. Under the above circumstances, No Dispute Award is passed without any orders as to costs.

4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./134/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/134/97-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/134/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of of SECL and their workman, received by the Central Government on 17-3-2005.

[No. L-22012/134/97-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/134/98

Presiding Officer : SHRI C.M. SINGH

The General Secretary,
Samyukta Khadan Mazdoor Sangh,
At & PO Sanjay Kayla Nagar,
Dist. Shahdol (MP)

Union/Workman

VERSUS

The General Manager,
Sohagpur Area of SECL,
PO Dhanpuri,
Distt. Shahdol. (MP)

Management

AWARD

Passed on this 18th day of February 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/134/97/IR (C.M. II) dated 15-7-98 has referred the following dispute for adjudication by this tribunal :

SCHEDULE

“Whether the action of the General Manager, SECL, Sohagpur Area in reducing the basic wages of the employees selected for the post of Security Guard is legal and justified? If not, to what relief these workmen/employees are entitled to?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 4-8-98. Since then 17 dates have been fixed for filing statement of claim by the Union/Workman. But the Union/Workman failed to appear and file the statement of claim inspite of sufficient service of notice on them. It clearly indicates that the Union/Workman have no interest in prosecuting the case and do not want to prosecute the reference.
3. Under the above circumstances No Dispute Award is passed without any order as to costs.
4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1410.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./172/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/135/97-आई आर (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1410.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/172/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the

Management of SECL and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/135/1997-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/172/98

SHRI C.M. SINGH, Presiding Officer

The General Secretary,
Koyla Mazdoor Sabha (UTUC),
Sohagpur Area, Post Dhanpuri,
Distt. Shahdol

Union/Workman

VERSUS

The Sub Area Manager,
Bangwar Project, SECL,
PO Dhanpuri, Bangwar,
Dist. Shahdol, (MP)

Management

AWARD

Passed on this 18th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/135/97/IR (C-II) dated 30-7-98 has referred the following dispute for adjudication by this tribunal :

SCHEDULE

“Whether the action of the Sub Area Manager, Bangwar project of SECL, Sohagpur Area in promoting to Elect. Cat. V persons junior to Shri Abdul Wahid, S/O Abdul Gani, Elect. Cat IV Bangwar project vide order dated 1-12-95 is legal and justified? If not, to what relief the workman is entitled to?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 17-8-98. Since then 17 dates have been fixed for filing statement of claim by the Workman/Union. But the Workman/Union failed to appear and file the statement of claim inspite of sufficient service of notice on him. It clearly indicates that the Workman/Union has no interest in prosecuting the case and does not want to prosecute the reference.
3. Under the above circumstances. No Dispute Award is passed without any order as to costs.
4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एन.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./137/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/143/96-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/137/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of NCL and their workman, received by the Central Government on 17-03-2005.

[No. L-22012/143/96-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/137/97

SHRI C.M. SINGH, Presiding Officer

The Secretary,
Rashtriya Colliery Mazdoor Sangh,
Amlohri Branch,
Post Amlohri Colliery,
Distt. Sidhi (MP)

Union/Workman

VERSUS

The General Manager,
Amlohri Project, NCL,
Post Amlohri Colliery,
Distt. Sidhi (MP)

Management

AWARD

Passed on this 28th day of February 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/143/96/IR (C-II) dated 20/5/97 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the Management of Amlohri Project of NCL in dismissing Shri Diljan Mian, Driver-cum-Mechanic Cat. VI, Amlohri Project from services is legal and justified? If not, to what relief is the workman entitled and from which date?"

2. After the reference order was received, the reference was duly registered and notices were issued to the parties. The parties filed their respective statement of claims. The workman absented himself during the proceeding of this case on 29-4-03 the date fixed in the case and thereafter he never put in appearance till the last date i.e. 14-2-2005. It is worthwhile to mention here that the workman failed to appear to prosecute the case inspite of sufficient service of notice on him. The record reveals that the workman remained absent continuously on the last 10 dates fixed in the case.
3. Under the above circumstances, it is very clear that the workman has no interest in prosecuting the case. Therefore, No Dispute Award is passed without any order as to costs.
4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1412.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./161/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/216/96-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1412.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/161/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of SECL and their workman, received by the Central Government on 17-03-2005.

[No. L-22012/216/96-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/161/97****PRESIDING OFFICER : SHRI C.M. SINGH**

The Secretary,

Koyla Mazdoor Sabha, UTUC,

Lusai Camp, Post Kotma,

Distt. Shahdol

Union/workman

VERSUS

The General Manager,

Jamuna & Kotma, Area, SECL,

Post Jamuna Colliery,

Distt. Shahdol (MP)

Management

AWARD

Passed on this 28th day of February 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/216/96/IR (C-II) dated 5-6-97 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of Jamuna and Kotma areas of SECL in denying dependent employment to Smt. Badrunisha, widow of Late Mohd. Hamid (who died in a mine accident on 10-10-92 as per provisions of NCWA-IV is legal and justified? If not, to what relief is the dependent entitled and from which date?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 17-6-97. Since then 15 days have been fixed for filing statement of claim by the Union/Workwoman. But the Union/Workwoman failed to appear and file the statement of claim inspite of sufficient service of notice on it. It clearly indicates that the Union/Workwoman has a no interest in prosecuting the case and does not want to prosecute the reference.

3. Under the above circumstances, No Dispute Award is passed without any order as to costs.

The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1413. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबंध में निम्नलिखित के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर

(संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./141/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/158/96-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/141/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of SECL and their workman, received by the Central Government on 17-03-2005.

[No. L-22012/158/96-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/141/97****PRESIDING OFFICER : SHRI C.M. SINGH**

The Secretary,

Koyla Mazdoor Sabha (UTUC),

J & K Area,

Lusai Camp,

Post Kotma,

Distt. Shahdol

Union/Workman

VERSUS

The General Manager,

Jamuna & Kotma Area, SECL,

Post Jamuna Colliery,

Distt. Shahdol (MP)

Management

AWARD

Passed on this 28th day of February 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/158/96/IR (C.-II) dated 20-5-1997 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the Management of Jamuna UG R.O. of Jamuna & Kotma areas of SECL in dismissing Shri Samaroo, Line Mistry 1 & 2 mines from services is legal and justified? If not, to what relief is the workman entitled and from which date?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 27-5-97. Since then 15 days have been fixed for filing statement of claim by the Union/Workwoman. But the Union/Workwoman failed to appear and file the statement of claim inspite of sufficient service of notice on it. It clearly indicates that the Workman/Union has no interest in prosecuting the case and does not want to prosecute the reference.

3. Under the above circumstances, No Dispute Award is passed without any order as to costs.

4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer.

नई दिल्ली, 17 मार्च, 2005

का.आ. 1414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./251/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/383/98-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/251/99) of the Central Government Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of SECL and their workman, received by the Central Government on 17-03-2005.

[No. L-22012/383/98-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/251/99

PRESIDING OFFICER : SHRI C.M. SINGH

The Secretary,
Rashtriya Colliery Workers Federation,
Behind Municipality Office,
Post Kotma Colliery,
Dist. Shahdol (MP)

Union/Workman

VERSUS

The General Manager,
Jamuna & Kotma Area, SECL,
Post Jamuna Colliery,
Distt., Shahdol. (MP)

Management

AWARD

Passed on this 18th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/383/98/IR (C-II) dated 7-7-1999 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the Sub.-Area Manager, Jamuna U/G Sub-Area of SECL, PO Jamuna Colliery, Distt. Shahdol (MP) in not promoting Shri Abdul Nazir as Mechanical Fitter category IV is legal and justified? If not, to what relief is the concerned workman entitled?"

2. After the reference order was received, it was duly registered and notices were issued to the parties. The workman/Union filed the statement of claim and the management filed its written statement. While the proceedings of this case were in progress, the workman absented himself from 14-10-03, the date fixed in the case till 14-2-05 the last date fixed in the case. The case was at the stage of filing rejoinder and documents by the workwoman. But inspite of sufficient service of notice the workman/Union failed to put in appearance. The record reveals that the workman remained absent on the last 8 dates fixed in the case.

3. It is clear from the above that the workman/union has no interest in the case and does not want to prosecute this reference. Therefore, No Dispute Award is passed without any order as to costs.

4. The copy of the Award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer.

नई दिल्ली, 17 मार्च, 2005

का.आ. 1415.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./286/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/30/99-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1415.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/286/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the Management of WCL and their workmen, received by the Central Government on 17-03-2005.

[No. L-22012/30/99-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/286/99

PRESIDING OFFICER: SHRI C. M. SINGH

The General Secretary,
B.K.K.M.S. (BMS),
PO Parasia,
Distt. Chhindwara

Union/Workman

VERSUS

The Sub Area Manager,
Damua Sub Area of WCL,
PO Damua,
Distt. Chhindwara

Management

AWARD

Passed on this 28th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification-No. L-22012/30/99/IR (C.M.-II) dated 25-31-8-1999 has referred the following dispute for adjudication by this Tribunal :

SCHEDULE

“Whether the action of the management of Sub Area Manager, Damua Sub Area of WCL, PO Damua, Distt. Chhindwara (MP) in not promoting/regularising in clerk Grade I Shri Liladhar Sisodiya, Clerk Grade II agent's office, Damua Sub Area of WCL, PO Damua, Distt. Chhindwara is legal and justified? If not, to what relief is the workman entitled?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. On 2-5-2001, the date fixed in the case, the workman/Union put in appearance represented by Shri D.K. Sen, General Secretary of the Union. Thereafter he remained present perhaps on 2-3- dates fixed in the case. He absented himself on 8-8-03 the date fixed in the case. Thereafter the notice

was again issued to the Union/workman by registered post. It was sufficiently served on the Union/workman but in spite of sufficient service of notice, the Union/workman failed to appear and file statement of claim which clearly indicates that the Union/workman does not want to prosecute the reference.

3. The above circumstances clearly show that the Union/workman has no interest in prosecuting the reference and therefore No Dispute Award is passed without any orders as to costs.

4. The copy of award be sent to the Government of India, Ministry of Labour.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1416.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./294/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/183/99-आई आर (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1416.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/294/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the Management of SECL and their workman, received by the Central Government on 17-03-2005.

[No. L-22012/183/99-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/294/99

PRESIDING OFFICER: SHRI C. M. SINGH

Shri M.L. Jain,
Executive Committee Member,
Samyuktha Khadan Mazdoor Sangh,
Near Panchayati Mandir, Shahdol Union/workman

VERSUS

The General, Manager,
Sohagpur Area of SECL,
PO Dhanpuri,
Distt. Shahdol (MP)

Management

AWARD

Passed on this 28th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/183/99/IR(CM. II) dated 31-8-99 by this Tribunal :

“Whether the action of the Sub Area Manager, Sharda OCM of SECL in stopping services/duty of Shri Ramadhar Mishra, S/o Shri Ramdas Mishra, Pump Operator is justified? If not, to what relief the workman is entitled to ?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 13-9-99. Since then 18 dates have been fixed for filing statement of claim by the workman/Union. But the workman/Union failed to appear and file the statement of claim in spite of sufficient service of notice on him. It clearly indicates that the workman/Union has no interest in prosecuting the case and doesnot want to prosecute the reference.
3. Under the above circumstances, No Dispute Award is passed without any orders as to costs.
4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

कां.आ. 1417.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./300/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/137/99-आई आर (सी एम-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/300/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the

Management of of SECL and their workman, received by the Central Government on 17-03-2005.

[No. L-22012/137/99-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/300/99

PRESIDING OFFICER: SHRI C. M. SINGH

The Area Secretary,
Samyuktha Koyla Mazdoor
Sangh (AITUC),
Qr. No. M/598, Dipika Colony,
Vill. & PO Gevra Project,
Distt. Korba, Gevra Project

Union/workman

VERSUS

The Chief General Manager,
SECL, Gevra Area,
Post Gevra Project,
Distt. Bilaspur (MP)

Management

AWARD

Passed on this 28th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/137/99/IR (CM-II) dated 8/9/99 has referred the following dispute for adjudication by this Tribunal :

SCHEDULE

“Whether the action of the management of Gevra Area of SECL, Distt. Korba (MP) in not accepting demands No. 1 to 9 is legal and justified? If not, to what relief the workmen are entitled to?”

2. After the reference order was received, it was duly registered and notices were issued to the parties. This case was registered on 24-9-99. Since then 18 dates have been fixed for filing statement of claim by the Union/Workmen. But the Union/Workmen failed to appear and file the statement of claim in spite of sufficient service of notice on them. It clearly indicates that the Union/Workmen have no interest in prosecuting the case and do not want to prosecute the reference.
3. Under the above circumstances. No Dispute Award is passed without any order as to costs.
4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 17 मार्च, 2005

का.आ. 1418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, भारतीय पुरातत्व सर्वेक्षण प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर (संदर्भ संख्या 50/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं. एल-42012/178/2003-आई आर (सी एम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th March, 2005

S.O. 1418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2004) of the Central Govt. Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the Management of Archaeological Survey of India and their workman, received by the Central Government on 17-03-2005.

[No. L-42012/178/2003-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri N.K.R. Mohapatra,
Presiding Officer,
C.G.I.T.-cum-Labour Court,
Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 50/2004

Date of Passing Award 4th March, 2005

BETWEEN:

The Management of the
Dy. Superintending Horticulturist,
Archeological Survey of India
Division IV, Lewis Road,
Bhubaneswar ... Ist Party Management

AND

Their Workman,
represented through General Secretary,
Archeological Survey of India
Workers' Union, Barabati Fort,
Cuttack - 753001. 2nd Party-Union

APPEARANCES:

Sunakar Pradhan, Foreman For the 1st Party
(Horticulturist) Management

Ajaya Kr. Pattnaik,
Gen. Secretary For the 2nd Party Union

AWARD

The Government of India, Ministry of Labour, in exercise of power conferred by Clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-42012/178/2003/IR (CM-II), dated 28-7-2004.

"Whether the demand of the ASI Workers' Union for giving temporary status to all the casual workers who have completed 240 days of continuous service in a calendar year in the establishment to get all the facilities at par with other regular workers is legal and justified? If yes, to what relief they are entitled?"

2. Pursuant to the Communication contained in the letter of reference the 2nd Party Union should have filed his Claim Statement within 15 days from the date of receipt of the order of reference by providing copy thereof to the 1st Party-Management. But on failure to do so the Tribunal was pleased to issue notice to both the parties for their appearance and say if any. As a result the General Secretary, ASI Workers' Union, Barabati Fort, Cuttack appeared and filed a petition today expressing his intention not to proceed with the case on the ground that the 1st Party-Management is now in process of providing the casual workers 1/3rd pay of the regular employees as per the circular of the Department of Personnel and Training, Government of India. It is also submitted that the expedite the process of finalizing the said matter he did not like to proceed with the case and as such requested the Tribunal to pass a no dispute award.

3. In view of the above, there being no dispute as claimed by the Workers' Union no dispute award. is passed as per the submission of the Workers' Union.

4. Reference is answered accordingly.

Dictated and Corrected by me

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 18 मार्च, 2005

का.आ. 1419.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस० सी० सी० एल० प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गोदावरीखानी (संदर्भ संख्या 143/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-2005 को प्राप्त हुआ था।

[सं० एल-22013/1/2005-आई आर (सी-II)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1419.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 143/2003) of the Industrial Tribunal cum Labour Court, Godavarikhani as shown as shown in the Annexure in the Industrial Dispute between the employers in-relation to the Management of SCCL and their workman, which was received by the Central Government on 17-03-2005.

[No.L-22013/1/2005-IR(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GODAVARIKHANI

Monday 31st day of January, 2005

PRESENT:

SMT. K. SUVARCHALA, M.A., B.L.,
Chairman-cum-Presiding Officer

INDUSTRIAL DISPUTE NO. 143 OF 2003

Between :

Biyyala Upender,
S/o. Chandraiah,
26 years, E.C. No. 2908173, Ex-Badli Fillar,
Shantikhani Basti, Bellampally,
Dist. Adilabad.Petitioner

AND

1. The Chairman & Managing Director,
Singareni Collieries Co. Ltd.,
Kothagudem, Dist. Khammam.
2. The Chief General Manager,
Singareni Collieries Co. Ltd.,
Srirampur (P) Area, Srirampur,
Distt. AdilabadRespondents

This Petition coming before me for Final hearing in the presence of Shri P. Vishweswar Rao, Advocate for the petitioner and of Sri D. Krishana Murthy, Advocate for the respondents and having stood over for consideration till this date, the court passed the follows:—

AWARD

1. The Petitioner filed the petition u/sec.2-A (2) of ID., Act 1947 to set-aside the dismissal order dated

10-4-2003 and to direct the respondents to reinstate the petitioner into service as Badli Filler with continuity of service, all attendant benefits and with full back-wages.

2. The averments of this petition are as following:—

The petitioner was appointed as Badli filler in the respondent company as dependant of his. His father Sri Chandraiah was retired from service, as medically unfit. He was compelled to take his father to the hospitals for treatment. Due to the laborious work of coal filling, hazardous conditions and atmosphere, the petitioner took treatment in the SCCL dispensaries, hospitals. He could not attend for his duties for some days during the year, 2001. The said respondent dismissed the petitioner from service on 10-4-2003, on the ground that he absented for his duties during the year, 2001. He was worked for more than 100 musters. But 4 musters were removed for filling after and other flimsy grounds. He was shown 99 musters during the year, 2001. He was not issued the charge sheet dated 15-2-2002 and was not given any opportunity to participate in the domestic enquiry. Opportunity was not given by the company providing observation period of 3 to 6 months. It is a clear case of victimisation and unfair labour practice. The capital punishment of removal from service once for all is highly arbitrary and shockingly dis-proportionate. Hence, he filed the petition for the above said relief.

3. To this, the respondents filed conunter denying the averments of the petition. It is further stated that the appropriate Government is Central Government. State away the petitioner approached this Tribunal by filing a petition u/sec. 2-A(2) of ID Act, which is a state amendment and it is not applicable to the company.

4. The petitioner was appointed as Badli Filler on 2-8-2000 as a dependant of his father. The petitioner is a un-authorised absentee. All allegations made by the petitioner are false. He was issued charge sheet under the company's Standing Order No. 25 (25) for his habitual absence from duty during the year, 2000. The Charge sheet was sent to his native place by RPAD and it was served on the petitioner. he has not submitted any reply to the charge sheet. Therefore, enquiry was ordered into the charges. The enquiry notice was sent to the petitioner on 25-6-2002, by RPAD. But it was returned undelivered by the postal authorities with the remarks that "Addressee long absentee, waited 7 days, returned to sender". It is published in Vartha telugu daily news-paper on 13-10-2002, advising the petitioner to attend the enquiry on 18-10-2002. The petitioner did not enquiry and it was conducted exparte, following the principles of natural justice. After completion of enquiry, the petitioner was issued notice on 18-12-2002 advising him to submit representation if any, within 7 days. But he did not submit any representation to the notice. The petitioner did not show any improvement even after issuing charge-sheet and nshow cause notice. The charge against the petitioner was proved and hence, the petitioner was dismissed from service by the respondents, on 10-4-2003. The respondent and taken the action as per rules. hence, the petition may be dismissed.

4. On behalf of the petitioner Ex. W-1 to Ex. W-3 are marked.

On behalf of the respondent, Ex. M-1 to Ex. M-10 are marked.

5. Heard both sides.

6. The petitioner worked as badli filler in the respondent company, he was dismissed from service on the ground of absenteeism.

The 1st and foremost point raised by the respondent company is that this Tribunal is having no jurisdiction to entertain the I.D. stating that respondent company is Central Government organisation.

The point for consideration is whether this court is having jurisdiction over the dispute or not?

7. The Advocate for the petitioner argued that Sec. 2-A(2) is applicable to the workman working in Coal Industry also and this petition is maintainable before this court. While arguing so, he cited I.L. Naidr and others Vs. Union of India and others reported in 2003 (2) ALT-470. Their Lordships held:—

“the contention that Sec. 2-A(2) of I.D. Act, is not applicable to a Government of India undertaking is wholly misconceived. In view of the provisions of Art. 254 (2) of the Constitution, the provisions of Sec. 2-A(2) incorporated by A.P. Amendment Act, 32/87 are valid and operative. It is not limited to the “State Industries” as contended by the petitioners. The State Legislature was competent to enact the entirety of the Industrial Disputes Act, for its operation within the territory of A.P. The provisions of Sec. 2-A(2) having received the assent of the President, the workman of Central Government Industry also can raise the dispute U/Sec. 2-A(2) of the I.D. Act. Therefore, the contention of the respondents’ company that sec. 2-A (2) is not applicable to the petitioner, is without merit or force.”

In the light of the above decision, it is quite clear that the petitioner can raise the dispute U/Sec. 2-A(2) of I.D. Act, though he worked in the Coal Mine. Hence, the point is answered in favour of the petitioner.

8. The petitioner agitated before the court that no opportunity was given to him to defend his case.

The respondents filed the charge sheet marked as Ex. M-1. The ack., of the petitioner is marked as Ex. M. 2. Though the charge sheet was served on him, he did not make any representation to the respondents. Later, enquiry notice was served on the petitioner, which is marked as Ex. M-3. The undelivered postal returned cover is marked as Ex. M-4. Another counselling notice was issued under Ex. M-5. The publication given by the respondents company in Vartha Telugu daily news-paper is marked as Ex. M-6. The enquiry proceedings are marked as Ex. M-7. The enquiry report is marked as Ex. M-8. The respondent company issued 2nd show cause notice to the petitioner on 18-12-2002 which is marked as Ex. M-9. The petitioner did not submit any reply to the show cause notice. The respondents dismissed the petitioner from service on 10-4-2003 i.e., marked as Ex. M-10.

The petitioner filed 3 documents. The payment sheet for the month of February, 2002 is marked as Ex. W-1. The payment sheet for the month of March, 2003 is marked as Ex. W-2. The dismissal order copy is marked as Ex. W-3.

9. The petitioner is saying that his father was a patient. He was declared medically unfit. As his father is suffering from ill-health, he was roaming around the Area Hospitals run by the respondents company. He further stated that he was also suffering from ill-health and discomfort, as the respondents company is a coal mine. He was also roaming around the hospitals. But he did not file any document to prove his version.

As per the version of the petitioner, he had completed 99 musters. The minimum musters are 100. The 99 musters were admitted by the respondents company. Though the petitioner is negligent in approaching the respondent, after receiving the charge sheet, an opportunity has to be given to the petitioner in future. Hence, I feel that a lesser punishment will meet the ends of justice.

In the result, the petition is partly allowed, setting aside the dismissal order. The respondents’ company is directed to reinstate the petitioner into service as Badli Filler, as a Fresh Candidate. He shall be put under observation for one year. If he repeats the same, the respondents’ company is at liberty to take the action against the petitioner. There shall be no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this, the 31st day of January, 2005.

Smt. K. SUVARCHALA,
Chairman-cum-Presiding Officer

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

For Workman	—Nil.
For Management	—Nil

EXHIBITS

For Workman:

Ex. W-1 Dated —	Payment sheet for the month of February, 2002.
Ex. W-2 Dated —	Payment sheet for the month of March, 2003.
Ex. W-3 Dated 10-4-2003	Dismissal order. X-copy

FOR MANAGEMENT:—

Ex. M-1 dt. 15-2-2002	Charge Sheet
Ex. M-2 dt. 6-5-2002	Ack.
Ex. M-3 dt. 25-6-2002	Enquiry notice.
Ex. M-4 dt. 26-6-2002	Undelivered postal returned cover with ack..
Ex. M-5 dt. 24-7-2002	Counselling notice.
Ex. M-6 dt. 13-10-2002	Vartha Telugu Daily News Paper in which enquiry

notice was published.
 Ex. M-7 dt. 18-10-2002 Enquiry proceedings
 Ex. M-8 dt. 12-12-2002 Enquiry Report
 Ex. M-9 dt. 18-12-2002 2nd show cause notice
 Ex. M-10 dt. 10-4-200x Dismissal order.

नई दिल्ली, 18 मार्च, 2005

का.आ. 1420.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस० सी० सी० एल० प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध म निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण गोदावरीखानी (संदर्भ संख्या 133/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-3-2005 को प्राप्त हुआ था।

[सं. एल-22013/1/2005-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1420.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 133/2003) of the Industrial Tribunal-cum-Labour Court, Godavarikhani as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of SCCL and their workman, which was received by the Central Government on 17-3-2005.

[No. L-22013/1/2005-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GODAVARIKHANI

PRESENT:

Smt. K. Suvarchala, M.A., B.L.,
Chairman-cum-Presiding Officer.

Monday, the 31st January, 2005

INDUSTRIAL DISPUTE NO. 133 OF 2003

Between :

Peruka Thirupathi, S/o. Yellaiah,
Age 26 years, Occ: Ex. Employee of S.C. Co. Ltd.,
R/o. presently residing in Qr. No. SRP.-18
Subhasnagar, Bellampally of Adilabad Dist

...Petitioner.

AND

The General Manager,
Singareni Collieries Co. Ltd.,
Srirampur Project,
Srirampur Division, Adilabad Dist.

...Respondent.

This petition coming before me for final hearing in

the presence of Sri P. Vishweswar Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the respondent and having stood over for consideration till this date, the court passed the following:—

AWARD

1. The petitioner filed the petition U/sec. 2-A(2) of I.D. Act, 1947 to set aside the dismissal order dt. 22-8-2003 passed against the petitioner and direct the respondent to reinstate the petitioner into service with continuity of service, with all attendant benefits and with full back-wages.

2. The averments of the petition are as follows:—

The petitioner was appointed on 13-3-2000 as Badli Filler in the respondent company. On 25-3-2003, a charge sheet was issued to the petitioner that he was absented for his duties habitually without sanctioned leave in the year, 2002. Without considering the reply of the petitioner, the respondent conducted domestic enquiry issued show cause notice and dismissed the petitioner from service on 22-8-2003.

In January, 2002, the petitioner suffered from severe chest pain. He immediately approached the company hospital, Bellampalli. He was informed that his problem was very serious. In case if he undergoes treatment in the company hospital, there is a possibility of declaring the petitioner as unfit to the job and consequently he may be removed from service. Therefore, the petitioner went to the Care Hospital, Hyderabad and took treatment. He informed to the superiors about his ill-health and went on leave on several occasions. Therefore, the charge is unsustainable and devoid of truth. The officers advised him not to disclose his heart problem, for the sake of his job. He used to mention it as only an ill-health. The respondent did not consider his explanation and it was recorded that no explanation was filed by the petitioner. The minimum working days are 100 musters in a year. The petitioner worked 138 days in the year 2000. 125 days in the year, 2001 and 85 days in the year 2002. Because of ill-health, 15 musters were fallen short to the required 100 musters. The action taken by the respondent is not unjustified and it amount to his economic death. Therefore, he filed the petition for the above said relief.

3. To this, the respondent filed counter denying the averments of the petition. It is further stated that the respondent company deals with Coal Mining. The appropriate Governments is Central Government and not the State Government. This court is not competent to entertain the petition U/Sec. 2-A (2) of I.D., Act, unless it is referred by the Government of India.

The petitioner is a habitual absentee he was appointed as badli filler on 14-3-2000. He was issued charge sheet on 27-3-2003 for mis-conduct under company's Standing Order No. 25(25), for his un-authorised absenteeism during the year, 2002. He submitted explanation to the charge sheet on 22-4-2003 stating that due to ill-health, he absented

from his duties during the year, 2002 and assured that he would work regularly in future. Domestic enquiry was conducted, following the principles of natural justice. The petitioner was given fair opportunity to produce his evidence, documents and to cross examine the management witnesses. He did not cross examine the management witnesses. He participated in the enquiry. The enquiry officer gave a finding stating that the charge levelled against the petitioner under company's Standing Orders 25(25) for remaining unauthorisedly absent without sanctioned leave in the year, 2002 is proved. He was issued show cause notice, but did not submit any representation. The respondent dismissed the petitioner from service on 22-8-2003. The petitioner did not improve his attendance, after counselling also. He worked 8 days in May, 2003. The charge levelled against the petitioner was proved in domestic enquiry. The respondent had taken the action as per the rules. Hence, the petition may be dismissed.

4. On behalf of the petitioner, Ex. W-1 to Ex. W-7 are marked.

On behalf of the respondents, Ex. M-1 to Ex. M-7 are marked.

5. Heard both sides.

6. The petitioner worked as badli filler in the respondent company. He was dismissed from service.

The 1st and foremost point raised by the respondent company is that this Tribunal is having no jurisdiction to entertain the I.D., stating that the respondent company, is a Central Government organisation.

The point for consideration is whether this court is having jurisdiction over the dispute or not ?

7. The Advocate for the petitioner argued that Sec. 2-A(2) is applicable to the workman working in Coal Industry also and this petitioner is maintainable before this court. While arguing so, he cited I.L. Naidu and others Vs. Union of India and others reported in 2003 (2) ALT-470. Their Lordships held :—

The contention that Sec. 2-A(2) of I.D. Act, is not applicable to a Government of India undertaking is wholly mis-conceived. In view of the provisions of Art. 254(2) of the Constitution, the provisions of Sec. 2-A(2) incorporated by A.P., Amendment Act, 32/87 are valid and operative. It is not limited to the "State Industries" as contended by the petitioner. The State Legislature was competent to enact the entirety of the Industrial Disputes Act, for its operation within the territory of A.P. The provisions of Sec. 2-A(2) having received the assent of the President, the workman of Central Government Industry also can raise the dispute under Sec. 2-A(2) of the I.D. Act. Therefore, the contention of the respondent's company that Sec. 2-A(2) is not applicable to the

petitioner, is without merit or force."

In the light of the above decision, it is quite clear that the petitioner can raise the dispute under Sec. 2-A(2) of I.D. Act, though he worked in the Coal Mine. Hence, the point is answered in favour of the petitioner.

8. The version of the respondent is that the petitioner never discharged his duties fully for the years, 2001, 2002 and 2003. The allegation against the petitioner is that he was unauthorisedly absented for his duties during the year, 2002. The petitioner submitted a letter dt. 22-4-2003 stating that his health was improved. On that counselling was given to the petitioner and he was explained about the attendance performance. But the petitioner worked for only 8 days in May, 8 days in June, and 17 days in July, 2003. Thus, he worked only for 63 days upto July, 2003, in all. Therefore, domestic enquiry was conducted and on proof of the charges, he was dismissed from service.

9. To this, the petitioner stated that he suffered from heart pain. To prove the facts, he filed before the court the O.P. card and receipt of the Care Hospital, dt. 3-6-2002 marked as Ex. W-1. The out-patient bill-cum-receipt dt. 3-6-2002 is marked as Ex. W-2. Another receipt for Rs. 1,000/- is marked as Ex. W-3. The Echo-Cardiogram report is marked as Ex. W-4. The Echo Cardiographic report is marked as Ex. W-5.

The petitioner himself admitted that he was absent to his duties. But the reason stated by the petitioner is that he has suffered with chest pain and undergone treatment in the Care Hospital. He has also filed Ex. W-1 to Ex. W-5, in support of his version.

10. The Advocate for the petitioner cited Richardson & Cruddas (1972) Ltd., Vs. The Association of Engineering Workers and others reported in 1996 FLR-1582. In that their Lordships held that the punishment of dismissal from service for habitually remaining absence is harsh. The Labour Court can review the punishment, if found disproportionate to the attributed misconduct and order for reinstatement of the workman. The Labour Court shall be judicious in its approach in the matter of quantum of punishment to be imposed on the workman.

11. This court is having power to adjudicate the genuineness of the punishment, under Sec. 11-A of I.D. Act. Though it is quite clear that the petitioner was not able to complete his quantum of working days in the year 2003, he stated that he suffered from ill-health and filed the supporting documents. Therefore, I feel that the order of dismissal is the harshest punishment imposed on the petitioner by the respondent company and a lesser punishment will meet the ends of justice.

In the result, the petitioner is partly allowed, setting aside the dismissal order. The respondent's company is directed to reinstate the petitioner into service as Badli Filler, as a Fresh Candidate. He shall be put under observation

for one years. There shall be no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this, the 31st day of January, 2005.

Smt. K. SUVARCHALA,
Chairman-cum-Presiding Officer

Appendix of Evidence Witnesses Examined

For workman	Nil
For Management	Nil

Exhibits

For Workman :—

Ex. W-1 Dt. 3-6-2002	Care Hospital O.P. Card and receipt of petitioner.
Ex. W-2 Dt. —do—	Out-Patient Bill-cum-Receipt for Rs. 825.
Ex. W-3 Dt. 3-6-2002	Out-Patient Bill-cum-Receipt for Rs. 1,000.
Ex. W-4 Dt. —do—	Trans Esophageal Echo Chardiogram report.
Ex. W-5 Dt. —do—	Echo Chardiographic report.
Ex. W-6 Dt. 13-3-2000	Office Order, X-copy.
Ex. W-7 Dt. 22-8-2003	Dismissal Order.

For Management :—

Ex. M-1 Dt. 27-3-2003	Charge Sheet
Ex. M-2 Dt. —	Representation of petitioner
Ex. M-3 Dt. 6-5-2003	Enquiry notice
Ex. M-4 Dt. 27-6-2003	Enquiry proceedings.
Ex. M-5 Dt. 4-7-2003	Enquiry report
Ex. M-6 Dt. 5-7-2003	Show cause notice
Ex. M-7 Dt. 22-8-2003	Dismissal order.

नई दिल्ली, 18 मार्च, 2005

का.आ. 1421.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, ई. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण असनसोल (संदर्भ संख्या 15/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/408/94-आई आर (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1421.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 15/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of ECL and their workman, which was received by the Central Government on 18-03-2005.

[No. L-22012/408/94-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

SHR MD. SARFARAZ KHAN, Presiding Officer.

REFERENCE No. 15 OF 1995

PARTIES:

Agent, Belbaid Colliery,
Kumustoria Area of E.C.L.,
Topsi, Burdwan.

...Management

Vrs.

Sh. Kaleshwar Prasad Singh, UG Frammer,
represented by Khan Sharmik Congress,
Ukhra, Burdwan.

...Workman.

Representatives:

For the Workman (Union) : None

For the Management : Shri P.K. Das, Advocate

Industry : Coal ; State : West Bengal.

Date 18-02-2005.

AWARD.

In exercise of powers conferred by clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/406/94-IR (C. II) dated 2-3-95 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of

Belbaid Colliery under Kunustoria Area of ECL in dismissing Shri Kaleshwar Prasad Singh, UG Trammer acting as Coal Transport Munshi from the services of colliery *vide* dismissal Order No. A/KNT/P&IR 26-B/12898 dated 12-3-92 is legal and justified? If not, to what relief the workman concerned is entitled to?"

2. On receipt of the the aforesaid reference from the Ministry of Labour, summons were issued by the registered post with A/D to the respective parties and in pursuance to the summons both the parties appeared through their representatives and filed their written statement in support of their respective claims.

3. From persual of the record it transpires that on 25-8-98 the date was fixed for hearing on preliminary point but due to regular absence of the Union the then Presiding Officer was pleased to pass on order *ex-parte* holding the enquiry proceeding to be fair and valid and the case was fixed for final hearing on merit. The record further reflects that no step is being taken by the union since 22-9-98 and in spite of repeated issuance of the summons and service of the same he did not appear and take any steps. It appears that the union has got no interest to proceed with the case. No purpose is to be solved in keeping this reference pending in future. As such in the facts and circumstances of the case 'NO DISPUTE AWARD' is passed. Let the copy of the award be sent to the Ministry of Labour for information and needful.

Md. SARFARAZ KHAN, Presiding Officer.

नई दिल्ली, 18 मार्च, 2005

का.आ. 1422.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एफ०सी०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, नई दिल्ली (संदर्भ संख्या 36/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/333/99-आई आर (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1422.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the Management of Food Corporation of India and their workman, which was received by the Central Government on 18-03-2005.

[No. L-22012/333/99-IR(CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER R. N. Rai

I.D. No. 36/2000

IN THE MATTER OF:—

Sh. V.S. Rana,
C/o The District Secretary,
Bhartiya Khadya Nigam Karamchari Sangh (Regd.),
District Committee, 8, Astley Hall, Rajpur Road,
Dehradun.

Versus

The Senior Regional Manager,
Food Corporation of India,
5-6, Habibullah Estate,
Hazrat Ganj, Lucknow.

AWARD

The Ministry of Labour by its letter No. L-22012/333/99/IR (CM-II) Central Government dt. 29-02-2000 has referred the following point for adjudication.

The Point runs as hereunder :—

"Whether the action of the management of Food Corporation of India, Dehradun in relation to alleged *mala fide* transfer of Sh. V.S. Rana, State Secretary of the Union is just, fair and legal? If not, what relief he is entitled to and from what date."

The Karamchari Sangh has filed statement of claim on behalf of the workman. In the statement of claim, it has been stated that the Union is a registered trade union and has been recognised by the management in Zonal, Regional including district level in the Northern Zone of Food Corporation of India and has been accepted as the bargaining agent for and on behalf of the workman. That Shri V.S. Rana has been holding the post of District Secretary, Bhartiya Khadya Nigam Karamchari Sangh, District Dehradun and is also Regional Vice-President, State Committee, U.P.

That Shri V.S. Rana has been actively participating in the trade union activities and raising various demands to the management pertaining to the workmen. That the union from time to time has been challenging the activities of few persons who have been working against the interest of the workers and employees of Bhartiya Khadya Nigam

Karamchari Sangh including Mr. Dinesh Jugran and Mr. G.K. Mandola who have been getting a protection from the senior management officers of Food Corporation of India in this regard particularly at Zonal and Head Quarters level. That Shri Dinesh Jugran has also been involved in various criminal activities for which he was kept in judicial custody and a criminal case was also registered against him. He has also been found indulging in various activities against the interest of the corporation. The union has been raising demands from taking stern action against such people but the management remained silent.

That the union has raised a demand letter dt. 27-07-1998 wherein it has alleged various activities of the management causing harassment to its office bearers and victimization in the hands of the management with a simple view to obstruct and discourage its office bearers including Mr. V.S. Rana in particular. Various false complaints were made against Mr. V.S. Rana and several enquiries were conducted one after another but nothing came out against Sh. V.S. Rana. The enquiry squad even came from the office of the E.D. Vigilance Head Quarters of F.C.I. on 29-06-1998 who demanded bribe from Shri V.S. Rana and other employees of the F.C.I. A complaint to that effect was lodged on 30-06-1998 with the management. Thereafter the management became prejudiced against Shri V.S. Rana and had made all efforts either to victimize him and terminate his services but when they found no grounds of termination they all of sudden without any time and reasons and without there being any exigency started hatching a conspiracy against him as well as other active members of the union.

That the union gave a demand notice through which it was clearly mentioned that unless their demands are met they would adopt the method of peaceful demonstration and striking the work. The notice was dt. 27-07-1998. The meeting with the management was held on 12-08-1998 in that regard at Regional Office, Lucknow and the period of the notice was extended as the management wanted some more time to consider the demands. Meanwhile, with *mala fide* intentions the management all of sudden issued transfer order of Shri V.S. Rana to Rajasthan Region on 18-08-1998. That the matter was taken up with the Assistant Labour Commissioner who conducted conciliation proceedings and during the conciliation proceedings the union did not proceed further with its strike and as well on humanitarian grounds due to land slides and earthquake within the district range of the F.C.I. so that the supply of the foodgrains to such areas are not affected.

That the management thereafter on its own changed the transfer order *vide* its letter dt. 06-11-1998 and posted Sh. V.S. Rana to Delhi w.e.f. 14-09-1998 giving a retrospective effect which is a clearly *mala fide* biased attitude and amounts to victimization and is an unfair labour practice on the part of the management. The management

has also withheld the earned wages as well as other dues of Shri V.S. Rana since 14-09-1998 till date. The Conciliation Officer made all efforts to persuade the management but it appears that the management was adamant to victimization of Shri V.S. Rana and did not furnish any justified or reasonable reasons for such anti-labour and illegal actions of his transfer.

That the union hereby strongly objects to the actions of transfer of Shri V.S. Rana from Dehradun Office to Delhi Office which is on account of his trade union activities and to weaken the strength of the union in district and regional level where he is holding key post and is presently the office bearer, i.e., District Secretary, Dehradun and Regional Vice-President, Lucknow Region. The Senior Officers of the management including E.D. Vigilance, Zonal Manager and other officers have deliberately taken this action by getting annoyed on account of his complaining the corrupt practices being adopted by the management and the senior officers. That the transfer of Shri V.S. Rana from Dehradun office first to Rajasthan and subsequently to Delhi is illegal, arbitrary, biased, unfair, contrary to principles of natural justice and is by way of victimization and amounts to unfair labour practice. The management even had never issued any charge sheet or initiated any disciplinary action against Mr. V.S. Rana for any act or omission so far. The stoppage of his salary and wages is also another example of *mala fide* action of the management which is liable to be struck down.

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to pass an award in favour of the union/the workman holding that the transfer of Shri V.S. Rana is illegal, unjustified, *mala fide*, arbitrary and amounts to unfair labour practice and is victimization. He may be awarded reinstatement in his Dehradun Office alongwith all the back wages and other benefits to which he is otherwise entitled to as working at Dehradun Office continuously. The cost of the proceedings may also be awarded in favour of Sh. V.S. Rana and against the management. The union further prays that the reference be answered in favour of the union/Sh. V.S. Rana and against the management.

The management has filed written statement. In the written statement, it has been stated that at the outset it is submitted that under Regulation 17 of the Food Corporation of India (Staff Regulations) 1971 which have been framed under Section 45 of the Food Corporations Act, 1964 and are consequently Statutory Regulations the workman is liable to be "..... serve anywhere in India in the service of the Corporation...." In the circumstances it is submitted that the transfer in the instant case is legal and valid.

It is submitted that it is settled law by various judgments of the Supreme Court that transfer is an incident of service and cannot be quashed by Courts except on specific grounds of *mala fide* or violation of some statutory

provision. In the instant case there is no allegation of violation of any statutory provision and also specific allegations of malafide intention. The transfer in the instant case has been done for administrative reasons and in the circumstances the same is not liable to be set aside. The main reason for the transfer of the workman was that the workman had misbehaved with and prevented a Head Quarters Vigilance Squad sent by the FCI from investigating certain allegations pertaining to the District Office where the workman was posted. In the circumstances, it became imperative to move the workman from the place so that the investigation could be done properly. This was not possible while the workman continued in that place and therefore it became necessary to transfer him immediately out of the concerned office. In the circumstances, it is denied that the transfer was due to malafide intention or the said transfer was unjust, unfair and illegal.

Thirdly, the present petition is also liable to be dismissed on the ground of non-joinder or proper parties as provided in the Food Corporation Act. That the statement of claim has not been signed by the workman or any office bearer of the union. Moreover, the same does not indicate the name of the person or office held by him and the authority by which he has signed the same.

It is denied that the two employees were given protection by the senior management as alleged in the petition. The allegation made in the Petition regarding the Zonal and Head Quarters level is totally false and motivated. The petitioner is put to strict proof of the allegations made in the corresponding para. In fact the CBI had dropped the case against the said Shri Jugran as a consequence of which the disciplinary case on the same issue had also to be dropped. In fact the entire case against the said employee was initiated on the basis of the false complaints made by the union and after investigation the charges have been found to be false.

It is not denied that the petitioner union has written such a letter as alleged in the Petition. It is denied that any false complaints were made against the workman. In fact due to the persistent misconduct committed by the workman number of charge sheets have been issued to him and in some cases he has been punished also. The proved misconducts committed by the workman included falsification of TA Bills, violation of HBA Rules in that after obtaining House Building Advance from FCI instead of mortgaging the property with FCI. He also obtained a Loan on the same property from SBI. Manhandling of the District Manager in his office at Dehradun. There are proceedings pending against him for manhandling of various officials including misbehaviour with Mr. K.S. Rawat, Assistant Manager (QC) and Shri S.D. Bahuguna of Accounts Branch. It is denied that the squad demanded bribe from the workman. The lodging of the complaints is not denied. But the complaint lodged was found to be

false. In fact the workman had tried to prevent the squad from conducting investigations and to prevent any action against him for this he has made the false complaint against the squad. It is denied that the management is prejudiced against the workman. It is denied that a conspiracy has been hatched against the workman and other members of the union.

It is denied that the union gave a demand notice dt. 27-07-1998. It is denied that the transfer of the workman was actuated by malafide motives as alleged in the Petition. As submitted above the transfer was done only on administrative grounds as set out hereinabove. The main purpose of the transfer was to complete the investigations without interference by the workman who has been in the habit of physically threatening and beating up officers as is evident from the various complaints against him, some of which have been proved in departmental enquiries.

In fact the place of posting of the workman concerned was changed to Delhi at his own request made during conciliation proceedings. He had requested before the Assistant Labour Commissioner (C) during conciliation proceedings that he may be considered for posting to some nearby station instead of Jaipur. The management considered this request sympathetically and modified the transfer order and the workman was transferred to Delhi vide order dt. 05-11-1998. This fact has been recorded by the ALC(C) in the copy of the proceedings. It is denied that the change of posting is malafide and shows the biased attitude of the management as alleged in the petition. In fact it shows that the management is not against the workman in any way as is falsely alleged in the Petition. It is denied that the wages of the workman has been withheld since 14-09-1998. It is denied that the conciliation officer had made all efforts to persuade the management as alleged in the Petition. These allegations are false to the knowledge of the petitioner. It is denied that the transfer of the workman was anti-labour or illegal. In fact the transfer is in accordance with law and on administrative grounds. In fact the workman willingly accepted the transfer and also drew transfer TA on 11-11-1998. The present proceeding is only an afterthought.

It is denied that the workman is being transferred due to his trade union activities and that it is being done to weaken the union. It is denied that the workman is the Regional Vice President of the Union. It is denied that the senior officers have taken the action of transferring the workman due to annoyance about the complaints by the workman. It is denied that funds were being mis-utilized as falsely alleged by the Petitioner. As submitted hereinabove the workman has been transferred on administrative grounds so that a proper enquiry could be held by the management into the complaints and counter-complaints received by it. This enquiry was being unlawfully obstructed by the workman. It is not party of trade union

activities to indulge in such unlawful actions. What manner the complaints are to be investigated and how funds are to be utilized is purely a prerogative of the management and the union or the workman cannot interfere in these matters.

It is denied that the transfer of the workman is illegal, arbitrary, biased, unfair and contrary to the principles of natural justice. It is settled law that transfer orders need not satisfy the requirements of natural justice. It is also settled law that transfers made on administrative grounds cannot be assailed on the ground of it being done due to trade union activities. It is denied that the action taken is a colourable exercise of power. The power of transfer is vested in the management under the statutory regulations governing the employment of the petitioner. It is denied that the transfer order is malafide. It is denied that the workman concerned had not been charge-sheeted or that no disciplinary proceedings were initiated against him. It is denied that the salary and wages of the workman had been stopped. Salary of the workman is released at his new place of posting.

The applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both sides and perused the papers on the record.

It was submitted from the side of the workman applicant that he was an active Union leader and District Secretary so with malafide intention he was transferred to Rajasthan. This amounts to unfair labour practice. Thereafter he was again transferred to Delhi Office on account of his Trade Union activities and to weaken the strength of the Union in district, regional level where he is holding the key post presently the Office Bearer. He is Regional Vice President, Lucknow Region so he was transferred to Rajasthan with vindictive attitude and certain unqualified allegations were made against him.

It was submitted from the side of the management that according to Section 35 of the Food Corporation of India Act, 1964 and consequently the statutory regulations, the workman is liable to serve anywhere in India in the service of the Corporation as such his teenager is neither malafide nor in violation of any statutory provisions. The transfer has been made on account of administrative reasons and in the circumstances the same is not liable to be set aside. The workman has mis-behaved with the Vigilance Squad of HQ so he was transferred to Rajasthan. He was not transferred with any malafide intention and such transfer was neither unjust nor unfair and nor illegal.

It has been further argued by the management that according to the regulations the management has got power to transfer an employee anywhere in India as per the Rules cited above. The management has certainly right to transfer an employee anywhere in India but that should not be with vindictive attitude and malafide intention. However, in this case the workman applicant has again been transferred to Dehradun so did not attend the Court but the management regularly attended the Court as such this reference has become infructuous and the management has not acted in any malafide manner. The management has transferred him to Dehradun again. The workman applicant does not deserve to get any relief as prayed for.

The reference is replied thus :—

The action of the management of Food Corporation of India, Dehradun in relation to alleged malafide transfer of Shri V.S. Rana, State Secretary of the Union is just, fair and legal. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly.

Dated : 15-03-2005

R. N. RAI, Presiding Officer

नई दिल्ली, 18 मार्च, 2005

का.आ. 1423.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 75/96) को प्रकाशित करती है; जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12012/113/95-आई आर (बी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1423.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/96) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of Punjab National Bank and their workman, which was received by the Central Government on 18-03-2005.

[No. L-12012/113/95-IR(B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II
NEW DELHI**

PRESIDING OFFICER: R.N. RAI. I.D. NO. 75/96

IN THE MATTER OF:—

The General Secy,
P. N. B Employees Congress,
C/o. P.N.B, Katra Mohan, Chandni Chowk,
New Delhi-6

VERSUS

The Regional Manager,
PNB, Regional Officer,
Antriksh Bhawan, Cannaught Place,
New Delhi

AWARD

The Ministry of Labour by its letter No. L-12012/113/95-IR(B-II) CENTRAL GOVERNMENT Dated. 26-7-1996 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the demand of the PNB Bank Employees Congress, Delhi on the management of PNB, New Delhi for grant of special allowance to Smt. Anjali Jain, Clerk for performing the duties of Head Cashier, Group ‘A’ at Extension Counter at Red Fort, Delhi during the periods from 7-2-89 to 12-2-89 and from 20-2-89 to 17-6-89 is legal and justified: If so, to what relief the said workman is entitled”.

The General Secretary has filed statement of claim. In the statement of claim, it has been stated that Smt. Anjali Jain appointed as a clerk in Punjab National Bank was working at Chandni Chowk, Delhi Branch of the bank in the years 1988 and 1989. That the service conditions of Smt. Anjali Jain for all time relevant to this dispute are governed by the provisions of the Sastry Award as modified by the Desai Award and as further modified in the subsequent Bipartite Settlements entered into between the managements of the Bank including the Punjab National Bank and their workmen from time to time.

That the first Bipartite Settlement dated 19-10-66 provided for payment of special allowances to the workmen in banks at the rates prescribed there payable for performance of certain prescribed special duties/functions over and above the routine duties and functions of workmen in the same cadre.

An extract of chapter V of above Bipartite Settlements prescribing the quantum of special allowances for various categories of workmen eligible for the prescribed special allowances and containing the general rules governing the payment of such special allowances is enclosed as Annexure W/1 hereto. An extract of appendix ‘B’ to the said settlement in which the special allowance duties for various categories in Non-subordinate staff cadre were enumerated is also enclosed as Annexure W/2 hereto.

The the bank had opened an extension counter in Red Fort, Delhi attached to Chandni Chowk, Delhi Branch and at this extension counter the cash counter was being looked after by a single cashier who was required to take a certain amount of cash from Chandni Chowk Delhi Branch in a container provided by the bank in the morning every day. This cash container had to be in the custody of the concerned cashier through out the working hours at the extension counter concerned and after the day’s cash payments/ receipts at his cash counter he had to deposit the container with the cash balance therein with Chandni Chowk Branch in the evening. The keys of this cash container remains with and under the custody of the concerned cashier during the working hours at the extension counter and he was responsible/ accountable for the safe custody of the cash in his custody so long as he worked at the extension counter. In a way the cashier working at the extension counter was also responsible for the running of the cash department of the extension counter.

That Smt. Anjali Jain was deputed to work in the cash Department at the Red Fort extension counter of the bank from October 1988 to November 1988 and for the period she worked at the said extension counter she was paid a special allowance at the rate of Rs. 164/- per month, which was payable to cashier in charge and or head cashier category ‘A’ in terms of the Fourth Settlement dated 17-9-84.

That Smt. Anjali Jain was again deputed to work in the cash department at the Red Fort extension counter from 7-2-89 to 12-2-89 but for this period she was not paid the special allowance of Rs. 164/- per month.

That for the third time, Smt. Anjali Jain was deputed to work in the cash department at the Red Fort extension counter from 20-2-89 to 17-6-89 but the bank did not pay to her the aforesaid special allowance though during this period she performed/discharged the same functions and responsibilities as during the period Oct. to Nov. 1988.

That the quantum of special allowance for cashier in charge and Head Cashier category ‘A’ was enhanced to Rs. 189/- per month under the Fifth Bipartite Settlement dated 10-4-89 with effect from 1-11-87 therefore Smt. Anjali Jain would be entitled to get the difference of special

allowance at the rate of Rs. 25/- per month for the period from October, 1988 to November, 1988 and at the rate of Rs 189/- p.m. for period 7-2-89 to 12-2-89 and for the period from 20-2-89 to 17-6-89 for which period no special allowance was paid to her.

Smt. Anjali Jain was entrusted with and had performed duties and discharged responsibilities which have been prescribed as the duties/responsibilities of a cashier in charge head cashier category 'A' in Appendix 'B' to the Bipartite Settlement dated 19-10-66 and which had not been modified in any subsequent settlement upto 1988-89.

The main duties and responsibilities of Smt. Anjali Jain while working at the Red Fort Extension counter of the bank during the periods mentioned above were to hold the cash in her custody together with its key at the extension counter and to be accountable for the same and being responsible for the running of the cash department counter at the said extension counter over and above her routine duties as a cashier.

The management had itself recognised the right of the workman to get the special allowance at the given rate of Rs. 164/- per month for performance of the aforesaid duties responsibilities by paying the said special allowance for the first stint of her posting at the Red Fort Extension counter from October 1988 to November 1988 and so there was no valid ground for withholding the payment of the said special allowance for the same duties performed/discharged by her during the subsequent of working at the said extension counter from 7-2-89 to 12-2-89 and from 20-2-89 to 17-6-89.

The action of the management in withholding the payment of the said special allowance to Smt. Anjali Jain for the periods from 7-2-89 to 12-2-89 and from 20-2-89 to 17-6-89 was arbitrary and wholly unfair and an act of unfair labour practice.

The management has filed written statement. In the written statement, it has been stated that the claim of the workman relates to the period February 1989 to June 1989 and as such is much belated and stale and on this ground itself the same should be dismissed in favour of the management. The service conditions of the workman staff are laid down vide Sastry Award and the Bipartite Settlements as amended upto date from time to time as also various bank rules framed from time to time.

Chapter V of the Bipartite Settlement dated 19-10-66 deals with special allowances. As per clause 5.6 the special allowances prescribed therein are intended to compensate a workman for performance or discharge of certain additional duties and functions requiring greater skill or responsibility over and above the routine duties and functions of the workman in the same cadre. In order to be

entitled to special allowance such additional duties and functions of the workman in the same cadre. Such as additional duties and functions should constitute the normal part of the duties and functions performed or discharged by a workman. Special allowances are not intended to be paid for casual or occasional performance or discharge of such duties/functions.

Clause 5.9 of the Bipartite Settlement dated 19-10-66 states that a workman will be entitled to a special allowance only so long as he is in charge of such work or the performance of such duties which attract such an allowance. The post of Head Cashier is a special allowance carrying post and the workman who is posted as Head Cashier is supposed to hold the bank's cash, keys etc. and as such paid the Head Cashier's allowance for the duties over and above the normal duties.

Smt. Anjali Jain was posted at BO Fountain, Delhi and was asked to work at Red Fort Extension Counter. She was supposed to carry out the duties of receipt and payment of cash, posting of ledgers, cash book, long book, transfer journals, preparation of pass books, reconciliation, TPO/Draft Issue, compliance of standing instructions, levying of interest on overdraft a/cs and other misc. work. She was never to hold the cash overnight at the Red Fort Extension Counter nor was she required to hold the keys as stated in appendix 'B' to chapter V of the Bipartite Settlement dated 19-10-66. She was under the wrong impression. The Special allowance @ 164/- p.m. for the months of October and November, 1988 was paid erroneously. Thereafter, she had proceeded on maternity leave and after she resumed her duty, though she was not allowed the special allowance of Rs. 164/- applicable to Head Cashier category 'A'. Though the bank had all the rights to recover the amounts of Head Cashier 'A' allowance paid to her erroneously yet instead of doing so the management merely discontinued the payment of special allowance as she was not entitled to the same.

It is stated that Smt. Anjali Jain was appointed in the bank's service on 30-11-81 and was working at BO Fountain from 28-8-87 till 3-11-90 and not at BO Chandni Chowk, Delhi as stated in the claim. It is stated that it is true that the bank has an extension counter at Red Fort, Delhi attached to BO Fountain, Delhi. The rest of the facts have been distorted by the workman to suit herself. In fact she was required to take a certain amount of cash from BO Fountain in the morning every day and was required to make receipts and payments of cash at the counter besides attending to any of the duties stated above. After the day's work was over at the extension counter she was required to redeposit the cash in hand, if any at BO Fountain i.e. the parent branch. She was not required to hold the bank's cash overnight at extension counter Red Fort nor was she required to hold the bank's cash keys to the safe vaults etc. It is reiterated that was wrongly paid special allowance

@ 164/- p.m. which was payable to Head Cashier category 'A' in terms of Bipartite Settlement dated 31-10-66 as amended upto date. Even otherwise payment of Head Cashier Category 'A' allowance wrongly made does not create a right in favour of the employee.

It is stated that since Smt. Anjali Jain was not entitled to payment of special allowance for Head Cashier category 'A' she was not paid special allowance from 7-2-89 to 12-2-89 i.e. the period for which she was deputed to work at Red Fort counter of BO Fountain. She was not entitled to payment of special allowance for having worked at Red Fort Extension Counter at BO Fountain from 20-2-89 to 17-6-89. It would however not be out of place to mention here that the workman Smt. Anjali Jain has not come with clean hands to this Hon'ble Court as she has deliberately for reasons best known to her failed to inform this Hon'ble Court that she was on leave on 10-2-89 April 12-20 and 24 1989 (23rd being a Sunday) May 3 to 12th, 29th to 31st, 1989 (28th being a Sunday) June 1st and 16th 1989. She has also failed to inform this Hon'ble Court that she has already been paid Head Cashier category 'C' allowance @ Rs. 275/- p.m. from February 14 to 28, 1989 March 1st to 20th 1989 and April 5th to 6th 1989 on account of having held the cash keys overnight to the banks cash kept in the safe strong room besides being responsible for running the cash department having two or more cashiers in the cash section.

Smt. Anjali Jain was not entitled to payment of special allowance of 164/- p.m. there is no question of enhancing the amount to Rs. 189/- p.m. under 5th Bipartite Settlement w.e.f. 1-11-87. Moreover the union is also claiming difference of allowance for the period October 1988 to November 1988, which is beyond the scope of terms of reference.

It is stated that it was after over 2 years of delay that Smt. Anjali Jain vide her representation dated 4-8-90 requested the management for payment of special allowance for the period 7-2-89 to 12-2-89 and 20-2-89 to 17-6-89. Thereafter it was only through the present claim dated 16-4-94/18-5-94 having been filed before the ALC (C) that she has raised the claim through her union. She has failed to explain the delay of over 2 years in the first instance and delay of 4 years thereafter and as such her claim does not merit any cognisance and should be decided in favour of the management.

Smt. Anjali Jain was not holding the bank's cash nor was she holding the keys and the union has merely twisted the facts to their convenience. She was carrying out the duties at the Red Fort Extension Counter during the period mentioned above as already stated in first para on page 2 besides making receipt and payment of cash.

That head cashier allowance category 'A' was paid to her erroneously for the period October to November

1989. Though the management had full right to withdraw/recover the amount so paid to her but as a gesture of goodwill it did not do so. The workman wants to take undue advantage of this goodwill act of the management by making this uncalled for demand.

The act of the management in not making payment of special allowance of Smt. Anjali Jain for the period 7-2-89 to 12-2-89 and 20-2-89 to 17-6-89 was not at all arbitrary and unfair, as has been made out by the union.

The General Secretary on behalf of the workman applicant has filed rejoinder and in his rejoinder he has reiterated the averments of his claim statement and has asserted that she is entitled to get special allowance in view of the bipartite settlement date 31-10-1966. The management has denied most of the paras of the written statement and it has been asserted that she has been paid special allowances of Rs. 275/- per month as Category-C. Hd. Cashier.

Heard arguments from both the sides and perused the papers on the record.

It has been admitted by the workman applicant in her cross-examination that she has received special allowance of Rs. 275/- as stated in the written statement as such she has received allowances for additional work and extra care. She cannot be again paid another allowance for the same work. She cannot be given two allowances for performing her duties. She was getting allowances for her extra duties as Category-C. Hd. Cashier. There is no provision for two allowances in bipartite settlement dated 31-10-1966. The key of the Cash Box remained with her. this was extra duty and for that she has been paid allowance as admitted by her in her cross-examination. My attention was drawn to 1963 (7) FLR. I have gone through the citation but the instant law is not applicable in the present fact and circumstances of the case. My attention was drawn by the management to 1996 LAB 1st C Page 45. I have perused the citation. This law is amply applicable in the facts and circumstances of the case. The workman applicant has not been able to make out his case. She was not present since 2002 in the Court. This also indicates that she has received the entire amount due.

The reference is replied thus :-

The demand of the Punjab National Bank Employees Congress, New Delhi on the management of PNB, New Delhi for granting of special allowance to Smt. Anjali Jain, Clerk for performing the duties of Hd. Cashier Group-A at extension counter at Red Fort, Delhi during the period from 07-02-1989 to 12-02-1989 and from 20-02-1989 to 17-06-1989 is neither legal nor justified. The workman applicant is not entitled to get any relief as prayed for. No order as to costs.

The Award is given accordingly.

Dated: 16-03-2005.

R.N. RAI, Presiding Officer

नई दिल्ली, 18 मार्च, 2005

का.आ. 1424.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय, नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 28/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12011/141/1999-आई आर (बी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/2000) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi, No. II as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workman, which was received by the Central Government on 18-03-2005.

[No. L-12011/141/1999-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II,
NEW DELHI**

PRESIDING OFFICER: R. N. RAI

I. D. No. 28/2000

IN THE MATTER OF:—

Punjab National Bank Workers' Union (Delhi),
C/o, Punjab National Bank,
L-Block, Connaught Place,
New Delhi-110001.

Versus

Sr. Regional Manager,
Punjab National Bank,
Regional Office (South Delhi),
Atma Ram House,
Tolstoy Marg,
New Delhi-110001.

AWARD

The Ministry of Labour by its letter No. L-12011/141/99/IR(B-II) dated 15-02-2000 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the management of Punjab National Bank, is justified in terminating the services of Shri Hira Lal, Part time Sweeper? If not, to what relief is the disputant concerned entitled to?”

The Union has filed statement of claim on behalf of the workman. In the statement of claim, it has been stated that the Petitioner is the Registered Trade Union, registered with the Registrar of Trade Union, Delhi under the provisions of the Trade Union Act, 1926. That we represented the majority of the employees of the erstwhile New Bank of India working in different branches/offices in different states and at All India level in that Bank. That pursuant to the notification by the Ministry of Finance, Banking Division Govt. of India, New Delhi, New Bank of India was merged/amalgamated with Punjab National Bank on 4-09-1993. That ever since the amalgamation of these two Banks, the management of Punjab National Bank nakedly adopted the policy of a step motherly treatment towards the employees of erstwhile NBI.

That Shri Hira Lal, Part-time Sweeper was regularly performing the duties as a permanent Part-time Sweeper at B.O.L. Block, Connaught Place, New Delhi against the permanent vacancy of Mrs. Chotti, the grand mother of Shri Hira Lal who worked for approximately 30 years in the erstwhile NBI. Mrs. Chotti expired on 12-02-1994. That Shri Hira Lal was drawing the salary in the scale of 3/4th pay and allowance as admissible under the provisions of the bipartite settlement of the Banking Industry.

That Shri Hira Lal had worked for more than 1963 days continuously without any break against the permanent vacancy in B.O.L. Block, Connaught Place, New Delhi of Punjab National Bank and was drawing the salary from the B.O. of the Bank along with other employees working the said B.O. of the Bank regularly. That after the death of Mrs. Chotti, Grand Mother of the said Hira Lal was working as Part-time Sweeper at the said B.O. of the Bank the management of Punjab National Bank appointed Shri Hira Lal as Part-time Sweeper in place of Mrs. Chotti to work regularly as PTS and was paid salary regularly therefore from the Bank along with other employees of the said B.O.

That even prior to 12-02-1994 when Mrs. Chotti expired, Shri Hira Lal also worked hundreds of days as part-time sweeper in erstwhile NBI in leave arrangement including B.O.L., Block, Connaught Place, New Delhi of the Bank. That during regular service as part-time sweeper from 12-02-1994 to 11-06-1999 at B.O.L., Block, Connaught Place, New Delhi the Bank even deducted the salary for Sunday(s) and Gazetted Holiday(s) which is violative of the law of the land. That during the aforesaid period, Shri Hira Lal was paid not only salary and bouns but also other service benefits like annual graded increments and other Medical Aids, Leave Fare Concession etc. as admissible under the provisions of the bipartite settlement of the Banking Industry.

That on 11-06-1999, on reaching the B.O. as usual to perform his normal duties of Part-time Sweeper, Shri S.K. Bhati, the then Manager of the said B.O. verbally instructed him not to perform his duties since a new part-time sweeper has been appointed by the Regional Authorities in his place and your services are being terminated forthwith from the Bank. That the services of the said Shri Hira Lal was terminated by the Branch Manager, B.O.L. Connaught Place,

New Delhi without complying with the provisions of the Industrial Disputes Act, 1947 and without any written office order and/or without serving any due notice required by the Act furnishing any cogent reasons for that action of termination of the services of Shri Hira Lal.

That the management of Punjab National Bank deliberately and intentionally terminated the services of Shri Hira Lal with the sole object of spreading reign of terror amongst the employees of erstwhile NBI particularly the members of under privileged section of our Society i.e.; Scheduled Caste and Scheduled Tribe. That the above action of the management of Punjab National Bank tantamounts atrocities on such downtrodden strata of our Society which attracts punitive actions under amours Laws besides "Unfair Labour Practices" as defined under the Industrial Disputes Act, 1947. That when the Management of Punjab National Bank neither considered the legitimate rights of Shri Hiral Lal, we were left with no alternative but to raise an industrial dispute in this regard. The Management of the Bank even did not give satisfactory reply. The management of the Bank also turned down the reasonable suggestion of the Asstt. Labour Commissioner to reinstate Shri Hira Lal in the services of the Bank. The Government of India after consideration, referred the dispute to this Hon'ble Tribunal for adjudication with the following Schedule of reference.

"Whether the management of Punjab National Bank is justified in terminating the services of Shri Hira Lal, part-time sweeper? If not, what relief is the disputant concerned entitled to?"

That the action of the management of Punjab National Bank is illegal, malafiede, arbitrary and amounts to victimization and retrenchment of the services of Shri Hira Lal without serving him due notice and compensation as provided under the provisions of the Industrial Disputes Act, 1947.

The management has filed written statement. In the written statement, it has been stated that the term "Retrenchment" has been defined under Section 2 (oo) of the ID Act, and Sub-clause (bb) of the said Section *inter alia* provide as under :—

"Termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry of such contract being terminated under a stipulation in that behalf contained therein."

It is submitted that in the instant case Shri Hira Lal was engaged for the limited period in stop gap arrangements only and by virtue of Section 2(oo) (bb) reproduced hereinabove, the non-continuance of Shri Hira Lal in the stop gap arrangements does not constitute 'retrenchment' and accordingly there can be no question of any violation of Section 25-F of the Act as alleged or otherwise.

That at the outset, it is submitted that all the allegations, submissions, averments made by the General Secretary of PNB Workers' Union (Delhi) representing

Shri Hira Lal in statement of claim dated 20-07-2000 be deemed to have been specifically denied unless they are specifically admitted in this reply. It is submitted that Shri Hira Lal had been working in leave/stop gap arrangement as part-time Sweeper at B.O.L., Block, Connaught Place, New Delhi for the specified period till posting of permanent sweeper at the said office from 11-06-1999. Since the averments of Shri Hira Lal was purely against leave/stop gap arrangement, the same cannot be termed as "Retrenchment" as defined under provisions of the ID Act and accordingly there cannot be any question of any violation of Section 25-F or any other provisions of the ID Act. Bank had entered into a conciliation settlement dated 07-05-1984 with All India PNB Employees Federation over the matter of fixation of wages of part-time sweepers and related matters. In terms of the provisions of the said settlement the vacancies of part-time sweeper at various offices are identified keeping in view the sweeping area of the concerned offices as well as hours of work per week to be put in by the part-time sweepers. It is also agreed that the vacancies of part-time sweepers eligible for 1/2, 3/4 or full wages arising at the station where the Bank has more than one office on account of any reasons shall be filled up on the basis of seniority determined by converting the services put in at 1/3, 1/2 or 3/4 of the scale wages into full time services. This procedure of filling up the vacancies is to be followed unless "thikana" system is in vogue at that particular area.

Ther vacancy of part-time Sweeper at B.O.L., Block, Connaught Place, New Delhi was of 3/4 scale wages which was required to be filled up from the seniortiy of the part-time sweepers working in Delhi as in Delhi there are more than one offices located. Accordingly, the vacancy of the said branch was filled up on 11-06-1999 by posting Shri Rajinder Kumar by following the procedure as envisaged in the above-mentioned settlement. Bank Rules further provides that till such time permanent part-time sweepers is posted in a vacacny, branch can make stop gap arrangement. The persons engaged in such stop gap arrangements are entitled to a compensation equivalent to same proportion of scale wages but at initial stage of pay scale applicable to subordinate staff. Shri Hira Lal was engaged at B.O. L., Block Connaught Place, New Delhi in stop gap arrangement. His engagement was for a specific period and on completion of the same, his engagement came to an automatic end. It is further submitted that the name of Shri Hira Lal appears in the list of those persons for the year 1998, who were engaged against leave arrangements for sweeping of premises and as and when his turn would come, he would be considered for absorption in permanent vacancy of part-time sweeper on consolidated wages/lowest scale wages.

The Bank Rule provide that till such time permanent part-time sweeper is posted in a vacancy, branch can make stop gap arrangement and such part time sweepers engaged in stop gap arrangement are entitled to a compensation equivalent to same proportion of scale wages but at initial stage of pay scale applicable to subordinate staff. Accordingly, Shri Hira Lal was paid 3/4 scale wages at initial stage of pay scale applicable to subordinate staff.

That Shri Hira Lal has worked only in leave vacancy/stop gap arrangement at B.O.L., Block, Connaught Place, New Delhi and during 01-01-1994 to 31-05-1994, he worked for 278 days and during 01-06-1995 to 11-06-1999 for 1147 days. Thus he worked for a total number of 1425 days during 01-01-1994 to 11-06-1999.

The contents of Para 8 as stated are wrong and denied. It is denied that Shri Hira Lal was ever appointed as part-time sweeper at B.O.L., Block, Connaught Place, New Delhi as alleged or otherwise. It is reiterated that Shri Hira Lal was engaged in stop gap arrangement only for sweeping the premises of Block, Connaught Place, New Delhi for which necessary payment was made to him as per rules of the Bank.

It is reiterated that Shri Hira Lal was used to be made necessary payments for his working in stop gap arrangement at B.O.L., Block Connaught Place, New Delhi as per. rules of the Bank. It is submitted that consequent upon joining of permanent part-time sweeper namely Shri Rajinder kumar at B.O. L-Block, Connaught Place, New Delhi on 11-06-1999, the stop gap arrangement with Shri Hira Lal automatically came to an end and accordingly he was not engaged thereafter.

That the contents of Para 13 as stated are wrong and denied. It is reiterated that Shri Hira Lal was never appointed as part-time sweeper in the bank and accordingly there was no occasion of termination of the services of Shri Hira Lal as alleged or otherwise. It is denied that any provisions of the ID Act has been violated. The Submission made hereinbefore are reiterated.

The workman applicant has filed rejoinder. In his rejoinder he has stated that he has worked for 1963 days i.e., 01-1-1994 to 11-06-1999 and he has been getting all the benefits of permanent employee. The management has denied most of the paras of the statement of claim and it has been asserted that he was employed on stop gap arrangement. The workman is not turning up since 2002.

Heard arguments from the side of the management and perused the papers on the record.

It was argued from the side of the management that he has been appointed on leave vacancy. If there is load of work or some permanent employee goes on leave some persons are engaged as substitute in place of the permanent employee. The workman applicant was employed as part time sweeper temporarily and according to seniority Shri Rajinder Kumar was appointed. As and when his number of seniority comes he would be given appointment. The workman applicant has not filed affidavit in support of his case. The burden is on the workman to prove that he was a part time permanent employee but he has failed to discharge his burden. He has not failed any affidavit in support of his statement of claim or rejoinder. The initial burden is on the workman applicant to prove his statement of claim. He has failed to do so as such he is not entitled to get any relief as prayed for.

The reference is replied thus :—

The Management of Punjab National Bank. Regional Office (South Delhi.) Atma Ram House. Tolstoy Marg, New Delhi-110001 is justified in terminating the services of Shri Hira Lal Part-time Sweeper. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly.

Dated 14-03-2005

R. N. RAI, Presiding Officer

नई दिल्ली, 18 मार्च, 2005

का.आ. 1425.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, सांगली के पंचाट (संदर्भ संख्या 11/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12011/91/1998-आई आर (बी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th March. 2005

S.O. 1425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/99) of the Labour Court, Sangli as shown in the Annexure in the Industrial Dispute between the Management of Bank of Maharashtra and their workmen, which was received by the Central Government on 18-03-2005.

[No. L-12011/91/1998-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE SHRI P. S. NARKAR THE PRESIDING OFFICER^o LABOUR COURT SANGLI

Ref. (IDA) No. 11/99

BETWEEN:

Bank of Maharashtra (Management) Ist Party
Regional Office,
Satara (Maharashtra State)

AND

Bomay Karmachari sangh IInd Party
The General Secretary,
185, Sheniwar Peth, Pune-30

In the matter of reinstatement with continuity of services and full back wages.

AWARD

(Date 1-3-2005)

1. The chief labour commissioner (C) New Delhi has forwarded this reference under clause (d) of sub-section (1) and sub-section 2(A) of Sec. 10 of the Industrial Dispute Act, 1947 for adjudication over the following demand of the II nd Party.

“ Whether the action of the management of bank of Maharashtra in relation to its regional Office, Satara is not allotting allowance carrying post of 2nd Cashier to Sh. M. N. Nimbkar, Clerk, Satara City Branch w.e.f. 11-10-1991 is legal and justified ? If not, what relief the said workman is entitled to?”

2. Record shows that II nd Party is absent on several dates and atleast after framing issues. Today also neither the union nor the concerned workman present. Issues were framed in 2001 and since then reference is pending for evidence. Hence, this reference is rejected for want of substantiation, and for default. Award accordingly.

Sangli,

Dated 1-3-2005

P.S. NARKAR, Presiding officer

नई दिल्ली, 18 मार्च, 2005

का.आ. 1426.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापत्तनम पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 78/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-34011/11/2002-आई आर (बी- II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, thDated 1-3-2005 18th March, 2005

S.O. 1426.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.78/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the Management of Visakhapatnam Port Trust and their workmen, which was received by the Central Government on 18-03-2005.

[No. L-34011/11/2002-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT: SHRI E. ISMAIL, B. Sc., L.L.B.,
Presiding Officer

Dated the 4th day of February, 2005

INDUSTRIAL DISPUTE No. 78/2004

(Old I.D. No. 16/2003 transferred from Industrial Tribunal cum Labour Court, Visakhapatnam)

BETWEEN:

The General Secretary,
Janata Port & Dock Employees' Union,
D. No. 21-30-18, Punja Junction,
Chengalarao Peta,
Visakhapatnam-530001.

....Petitioner

AND

The Chairman,
Visakhapatnam Port Trust,
Port Area,
Visakhapatnam-530035.

....Respondent

APPEARANCES:

For the Petitioner : Sri. A. Madhusudhana Rao,
Advocate

For the Respondent : M/s. D.V. Subba Rao &
D.V.S.S. Somayajulu,
Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-34011/11/2002-IR(B.II) dated the 16-4-2003 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal cum-Labour Court, Visakhapatnam between the management of Visakhapatnam Port Trust and their workmen which has been transferred to this Tribunal in view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C.II) dated 18-10-2001 bearing No. ID 16/2003. The reference is.

SCHEDULE

“Whether the demand of the Janata Port and Dock Employees' Union, Visakhapatnam for regularisation of services of Smt. B. Appalamma and 22 others (As per annexure). Female Khalasies from their date of their casual employment with all service benefits is legal and/or justified? If not, what relief the union is entitled to?”

The reference is renumbered in this Tribunal I.D. No. 78/2004 and notices were issued to the parties.

2. The brief facts as stated in the petition are : that these female khalasies numbering 23 were appointed as casual female khalasies during the years between 1985—87 except the following three. (I) at Sl. No. 12 Smt. M. K. Siroratnam, who was appointed on 21-1-1991. (II) at Sl. No. 15. Smt. M. Simbachalam, who was appointed on 25-2-88 and (III) at Sl. No. 16. Smt. D. Atehiyyamma, who was appointed on 5-2-94. All have been regularized during

1993 except Smt. Atchuyamma at Sl. No. 16 who has been regularized on 5-2-96. They want regularization from the date of their initial service. That these women have worked for 240 days continuously without any break and that their male counterparts were regularized immediately whereas they were neglected. Thereby the Management of Port Trust has shown discrimination and disparity between male and female workmen. The Management has sufficient work to entrust the works to the workwomen in various concerned Departments. Their regularization was made only after completion of 3 to 10 years of service which is illegal and arbitrary. The Government orders guidelines are very clear to provide employment opportunity to the near relatives of the deceased employees on compassionate grounds. It will not be out of place or mention that some casual labourers who were appointed in the year 1980 on compassionate grounds have raised a dispute before the Chairman and Presiding Officer Industrial Tribunal cum Labour Court, Visakhapatnam vide I.D. No. 5/93 in which it was clearly and categorically directed the Port Trust Chairman to regularize the casual labourers after expiry of 8 months of continuous service with retrospective effect and pay all arrears along with fringe benefits to the Petitioner. As per the directions of Hon'ble Labour Court, the Management obliged and regularised their services and also paid all arrears. These workmen approached the Chairman and referred various Awards passed like ITID No. 87/2002, 91/2002, 92/2002 and 93/2002. After failure of all their attempts they got issued a registered lawyer's notice through their Counsel Mr. A. Madhusudhan Rao on 20-2-2002 for which the Management has not given any reply. They replied that they are not parties to the ID 5/1993.

3. Thereafter they approached the Assistant Labour Commissioner (C), Visakhapatnam and then he forwarded a failure report which resulted in the reference. Hence, they may be directed to regularize the service after completion of 240 days with all benefits.

4. A counter was filed stating that this Court has no jurisdiction as they are Central Government employees and then they gave the correct date of casual appointment and date of regularization according to them who are at Sl. Nos. 6, 8, 9, 10, 12, 14, 16 & 19 as follows :

Sl. No.	Name	Emp. No.	Date of casual employment	Date of regularization
6	Smt. M. Atchiamma	018454	27-11-1985	16-8-1991
8	Smt. P. Krishna Kumari	018440	19-1-1987	16-8-1991
9	Smt. P. Kondamma	018443	16-8-1985	4-2-1993
10	Smt. N. Kondamma	018909	9-2-1987	26-6-1993
12	Smt. M.K. Siroratnam	01905	21-1-1992	26-3-1993
14	Smt. K. Saraswathi	01850	6-10-1987	19-12-1991
16	Smt. D. Atchiamma	019434	1-2-1994	5-2-1996
19	Smt. S. Nagamma	019069	29-1-1988	5-11-1993

That is true that the Petitioners were casual labours as their husbands who are employees appointed as died while in service. They were appointed purely on humanitarian grounds to mitigate the hardships of their family members. It is not correct to state that the Hon'ble Supreme Court gave any such observation as mentioned in the petition. The decision is dependent upon the merits of each case. It is true that the Petitioners have completed 240 days service of on casual basis before their date of regularization. They have not been taken against any existing post. They have been appointed on humanitarian grounds as their bread earners and husbands have died while in service. Had the Petitioners been appointed on casual basis against permanent post, they have a right to demand regularization on their service immediately after completion of 240 days. There were no permanent posts available at that time. There are no guidelines for providing permanent employment for relatives of the deceased employees, issued by the government. That these ladies were regularized due to transfer of some employees to other Departments and retirement. The allegation that the Petitioners are put to hardship is wrong as they are holding permanent posts for the past ten years. Hence, the Petition may be dismissed.

5. The Petitioners filed a rejoinder stating that the Hon'ble Court is also an Industrial Tribunal cum Labour Court appointed by the Central Government and the Hon'ble Court has jurisdiction. The Hon'ble Court has jurisdiction because after the failure of conciliation proceedings the matter is referred to the Industrial Tribunal and again it was transferred to this Hon'ble Court. The opposite party admitted that workmen were appointed after the death of their husbands and that they completed 240 days.

6. The learned counsel for the Petitioner argues that a similar case had gone before the Industrial Tribunal cum Labour Court, Visakhapatnam wherein ITID (C) No. 92/2001 the reference was for regularization of Smt. Radhabai, Female Khalasi from the date of service with all service benefits is legal or not and that Court held that the Petitioner in that case is entitled for regularization of service after 240 days from her initial appointment and to pay all fringe benefits on such regularization and to treat her service from 5-12-80 for all the service benefits. Similarly he tried ITID (C) 91/2001 about a female Khalasi Smt. S. Mahalaxmi, similar order was passed and also filed an order dated 12-7-96 wherein a female Khalasi was ordered regularization after 240 days of service and the said award was passed in ITID (C) 5/93 by the then Chairman. So he submits that where the Port Trust is complying the orders of the Visakhapatnam Industrial Tribunal cum Labour Court, hence, they should have no hesitation in regularizing these candidates.

7. It is argued by the learned counsel for the Respondent that this Court has got no jurisdiction to direct

regularization from a particular date and he relied on 1994(2) Supreme Court cases page 718 wherein it was a case between Life Insurance Corporation of India Vs. Asha Ramchandra Ambekar (Mrs) and Another, wherein their Lordships held that, "approach should be legal and one cannot ignore whole logic of law and therefore no direction can be given for compassionate appointment". Therefore, he argues that when no direction can be given for compassionate appointment where is the question of giving regularization from a particular date. He therefore prays that the reference may be answered in favour of the Respondent.

8. It may be seen that the judgments cited by the learned counsel for the Respondent will have no application to the facts of this case. Here the Petitioners have been compassionate appointment. They have been regularized. Their only complaint is that their regularization was belated and in similar circumstances, which were quoted, now I mark them as Ex.X1, X2 and X3. Though Ex. X3 award actually the Chairman has accorded sanction for regularization with retrospective effect from the date of completion of continuous 240 days of casual service and no document is filed to show that the said awards have been challenged. That means in similarly constituted circumstances these awards have been implemented. So there is no reason why the same need not be passed here. No doubt, there is some confusion on the date of regularization as shown in the counter. Any way that is for the Respondent to find out when they complete 240 days from their initial appointment. Hence in the result, the reference is ordered as follows. "The demand of the Janata Port and Dock Employees' Union, Visakhapatnam for regularization of services of Smt. B. Appalamma and 22 others (As per annexure). Female Khalasies are emitted for regularization from the completion of 240 days of continuous service from the date of their first appointment and they are entitled for all benefits from that date."

Award passed. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 4th day of February, 2005.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner:	Witnesses examined for the Respondent:
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

Documents marked by the Court

Ex.X1: Copy of Award in ITID(C) 92/2001 dt. 24-6-2002 by IT Cum LC, Visakhapatnam
 Ex.X2: Copy of Award in ITID(C) 87/2001 dt. 24-6-2002 by IT Cum LC, Visakhapatnam
 Ex.X3: Copy of Award in ITID(C) 91/2001 dt. 24-6-2002 by IT Cum LC, Visakhapatnam

नई दिल्ली, 18 मार्च, 2005

का.आ. 1427.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 36/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2005 को प्राप्त हुआ था।

[सं० एल-12011/212/2002-आई आर (बी-II)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1427.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.36/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the Management of Andhra Bank and their workmen, which was received by the Central Government on 18-3-2005.

[No. L-12011/212/2002-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT: Shri E. Ismail B. Sc., L.L.B.,
Presiding Officer

Dated the 3rd day of January, 2005

INDUSTRIAL DISPUTE No. 36/2003

BETWEEN:

The Assistant General Secretary,
All India Andhra Bank Award
Employees Union, C/o Andhra Bank,
Vuyyuru, Krishna District.

.....Petitioner

AND

The Assistant General Manager,
Andhra Bank Zonal Office,
A. B. Buildings, R.R. Appa Rao Street,
Vijayawada-520 001.

.....Respondent

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar, K. Udayasari, P. Sudheer Rao, B. Shiva Kumar, T. Pravechander Rao and D. Madhusudhan, Advocates

For the Respondent : M/s. S. Udayachal Rao, S. Vikramaditya Babu and S. Mujib Kumar, Advocates.

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/212/2002-IR(B.II) dated the 19-2-2003 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the employers in relation to the Management of Andhra Bank and their workman.

SCHEDULE

"Whether the action of the management of Andhra Bank, Vijayawada Zone in removing the disputant of Shri D. Bala Krishna, Clerk on compulsory retirement is justified? If not, what relief the workman is entitled to?"

This reference was registered as Industrial Dispute No. 36/2003 and notices were issued to the parties.

2. The brief facts as mentioned in the claim statement are : that the Petitioner has joined the Respondent bank on 11-6-81 as clerk-cum-cashier at Bhadrachalam branch. That the Petitioner was discharging his duties as clerk-cum-cashier, the Respondent bank has issued him a charge sheet on 31-3-2001 alleging certain irregularities in not accounting for the cash received from the customer to the loan account and misappropriated the funds remitted by the customer. After receiving the charge sheet the Petitioner has submitted explanation denying the said charges without considering the same the Respondent bank has ordered an enquiry to the said charges. Much is written about the enquiry which need not be gone into as this court by a detailed order has held on 28-7-2004 that the domestic enquiry is validly conducted.

3. That the said complaint has been withdrawn by the alleged customer. That the procedure for writing of credit advice, when a customer comes to the bank for payment of loan, the concerned clerk by taking his name and account number the voucher along with advice will be returned by clerk and the same will be handed over to the customer again for making payment in the cash counter. Till such time the cashier puts his received cash stamp and signature, there is no validity for such advice exhibits which

bears no signature of the cashier/manager/officer and hence, non-validity for such vouchers. Hence, the Petitioner is no where connected with that advises and Petitioner not involved in that transaction. That he was compulsorily retired on 26-8-2002 which is shocking disproportionate and unjust. Hence, the punishment of compulsory retirement is illegal and arbitrary and secondly directs the Respondent to reinstate the Petitioner into service with continuity of service, full back wages and attendant benefits.

4. A counter was filed stating that the Petitioner was working at Labbipet branch. One Mr. M. Satyanarayana, a traffic constable availed a gold loan of Rs. 34,300/- bearing No. 98/124 on 26-8-1998 and Mrs. B. Devikrupa availed a gold loan of Rs. 11,000/- bearing No. 98/95 on 5-8-1998. The said complainant came to the branch on 15-4-99 for verification of the balance outstanding in the accounts, he pointed out that he had remitted Rs. 4300/- on 31-8-98 and Rs. 2000/- were not credited into his account. He also lodged a complaint on 15-4-99 with the Manager of the Branch stating that the amount was remitted by him through Mr. D. Bala Krishna and the said Balakrishna had also given counter foils in token of remitting the amounts. On 16-4-99 Mr. Balakrishna remitted the amount to the credit of these gold loan accounts. Thereafter Mr. Satyanarayana gave a letter on 16-4-99 withdrawing the complaint. The reason for withdrawal of the complaint as stated by the complainant is that since Mr. Balakrishna has paid the amount he no longer had any grievance against him. Again much is written about the validity of enquiry which need not be gone into now. That the punishment of compulsory retirement which is confirmed by the Appellate Authority is not disproportionate to the gravity of misconduct and if it is condoned or viewed leniently, it would adversely affect the interest of the financial institutions more particularly banks which deal with public money more or less in a fiduciary capacity. Hence, Mr. Balakrishna is not entitled to any relief.

5. The enquiry was held valid by this court vide a detailed order dated 28-7-2004. Hence, arguments were heard under Sec. 11A by both the counsels.

6. Written arguments were submitted by the Learned Counsel for the Petitioner that as the exhibits M. 4, M. 5 and M. 6 of the enquiry bears no signature of the cashier. Hence, there is no validity of such vouchers and the Petitioner is in no way connected with that advices and the Petitioner is not involved. The initials marked under the round stamp are also not put by the Petitioner. That the punishment of compulsory retirement is highly disproportionate and unjust and more so when the complaint has been withdrawn. Hence, he may be reinstated with full back wages.

7. It is argued by the Learned Counsel for the Respondent that the Hon'ble Tribunal has held that the enquiry is validly conducted. The only question that remains is whether he is entitled for any lesser punishment

than compulsory retirement. In matters concerning financial irregularities where the amount has been temporarily misappropriated for 8 months and 6 months. It is not desirable that the Hon'ble Tribunal takes a lenient view. Hence, the punishment awarded to him may be upheld.

8. It may be seen that the charge sheet is dated 31-3-2000 says that the Petitioner has given official receipt to Sri M. Stayanarayana duly signed by affixing Branch Stamp on the credit advice without accounting the same on that day and on verification the customer notice that the above amounts were not accounted for by him and so he must be charge sheeted. Further the signatures in the advices exhibits M4, M5 and M6 in the enquiry were not identified as that of the Petitioner herein Mr. D. Bala Krishna by the Management witness Sri G. Ravi Kumar, Manager of Labbipet branch. It may be seen that the written complaint by Mr. M. Satyanarayana is that as if Mr. D. Bala Krishna has paid the amount. He has no grievance and that he withdrew the complaint. The Enquiry Officer has drawn the conclusion that it is clear that the amount was given to him and Mr. Bala Krishna has not remitted till a complaint was given and the Petitioner has not chosen to cross examine the witnesses also. In spite of giving sufficient adjournments he did not cross examine the Management witness. So the evidence goes unchallenged. After all, it is a documentary evidence and the bank was lenient enough to impose the punishment of compulsory retirement. More so, it is a financial irregularity where he has kept Rs. 4300/- for more than 8 months with him and not only that he has passed on a bogus official receipt, such financial irregularities does not entitle him for reinstatement back into service. Hence, the award is answered as follows: That the action of the Management of Andhra Bank in removing the disputant of Sri D. Bala Krishna, Clerk on compulsory retirement is justified and warrants no interference.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 3rd day of January, 2005.

E. ISMAIL, Presiding Officer

Appendix of Evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 मार्च, 2005

का.आ. 1428.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, सांगली के पंचाट (संदर्भ संख्या 38/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2005 को प्राप्त हुआ था।

[सं. एल-12012/18/1997-आई. आर. (बी. II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/98 of the Labour Court, Sangli as shown in the Annexure in the Industrial Dispute between the Management of Bank of Maharashtra and their workmen, which was received by the Central Government on 18-3-2005.

[No. L-12012/18/1997-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE SHRI P. S. NARKAR PRESIDING OFFICER
LABOUR COURT, SANGLI**

Ref. (IDA) No. 38/98

BETWEEN:

Bank of Maharashtra
Regional Office,
L.I.C. Building,
Koregaon Road, Satara, ... Ist Party

AND

General Secretary,
Bombay Karamchari Sangh,
267, Bhavani Peth, Moti Chowk
Satara-415 002. ... IInd Party

In the matter of reinstatement with continuity of service and full back wages.

AWARD

(Date 1-3-2005)

1. The Chief Labour Commissioner (C), New Delhi has forwarded this reference under clause (d) of sub-section (1) and sub-section 2(A) of Sec. 10 of the I.D. Act, 1947 for adjudication over the following demand of the IInd Party.

"Whether the action of the management of Bank of Maharashtra in not absorbing as full time substaff of Shri A.B. Umbarka w.e.f. 22-4-91 by virtue of having worked in the said post for 312 days is justified? If not, what relief to which the workman is entitled?"

2. Record shows that IInd Party and concerned are absent on several dates and today also. Nobody present for them till 4.15 p.m. issues were framed in 2001 and since then reference is for evidence. Hence this reference is rejected for want of substantiation and in default. Award accordingly.

Sangli,

Date : 1-3-05

P. S. NARKAR, Presiding Officer

नई दिल्ली, 18 मार्च, 2005

का.आ. 1429.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापत्तनम पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 192/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2005 को प्राप्त हुआ था।

[सं. एल-34025/1/2005-आई आर (बी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.192/2003) of the Central Government Industrial-Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Visakhapatnam Port Trust and their workmen, which was received by the Central Government on 18-3-2005.

[No. L-34025/1/2005-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer.

Dated the 10th day of January, 2005

INDUSTRIAL DISPUTE L.C.L.D. No. 192/2003

BETWEEN:

Sri Vadamudala Siva Prasad,
S/o Late Appanna,
D. No. 24-9-7,
Kadiridanappa Veedhi,
Kota Veedhi,
Visakhapatnam-1

.....Petitioner

AND

The Chairman,
Visakhapatnam Port Trust,
Visakhapatnam-35.

.....Respondent

Appearances :

For the Petitioner : M/s. V.V. Balakrishna &
B. Konda Reddy, Advocates

For the Respondent : M/s A. Krishnam Raju,
G. Dinesh Kumar,
G.V.N. Babu,
N. Premananda Rao &
K.N. Reddy, Advocates

AWARD

This is a case taken under Sec. 2 A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are : That the Petitioner's father was an employee of the Visakhapatnam Port Trust and he expired while in service when the Petitioner was a small child. After attaining majority, he was absorbed as casual Khalasi in Dredger Visakha in March, 1988. The workman was appointed as Khalasi on 30-7-90 and after successful completion of probation period he was confirmed on 9-11-1993. That during the year 1996 and 1997 he could not attend to his duties regularly because of the sickness of his old mother. The workman had to obtain leaves to attend his bed ridden mother and his wife too was a patient. The workman during this period remained absent from duties for 83 days for which leave granted was for 47 days. The workman was for the 1st time chargesheeted by the Management for unauthorized absence and he was punished with stoppage of one increment with cumulative effect for a period of six month vide order dated 9-9-97. The workman has humbly undergone the punishment without grouse and continued to render his service. The workman was again issued a chargesheet on 5-4-2002 for unauthorized absence for 6 days in December, 2001 and 13 days in January, 2002 and 14 days in February, 2002. That the enquiry was an empty formality and the Enquiry Officer gives his findings based on the past record for conducting a fair deal. Hence, he may be reinstated with back wages and continuity of service.

3. A counter was filed stating that he remained absent from his duties in the year 1996-97 and for which he was punished with stoppage of one increment for a period of 3 months vide orders dated 9-9-97. It is true that a charge sheet was issued to him on 5-4-2002 for his unauthorized absence from 4-12-2001 to 9-12-2001, 1-1-2002 to 13-1-2002

and 11-2-2002 to 24-2-2002. That the enquiry was properly conducted and that is why seeing his past record he was dismissed.

4/ It is unfortunate that both the counsels perhaps forgot to bring to my notice that a domestic enquiry has been conducted and therefore this Court ought to have decided first the validity of the domestic enquiry, no doubt, the enquiry was held but as the proceedings of the enquiry and the enquiry report were not filed, the evidence was recorded.

5. The Petitioner deposed to the said facts stated in the petition and further deposed that he was given a punishment of compulsory retirement. He also gave an instance that this Court in LCID 34/2002 held that the punishment is excessive and directed the Management to reinstate the workman. In the further chief examination he deposed that Ex. W1 is the office order dated 30-4-2001 issued by the Deputy Chairman, Visakhapatnam Port Trust, Visakhapatnam reinducting Sri Ch. H.V. Gilby who was earlier ordered with compulsory retirement by the management. Ex. W2 is the order dated 24-7-2001 reinstating S. Srinivasa Rao, Khalasi (Shore), M.C. Complex issued by the Chief Mechanical Engineer, Visakhapatnam Port Trust, Visakhapatnam.

6. In the cross examination he deposed that he joined in the year 1993, he was given compulsory retirement in the year 2002. His regular service is hardly 9 years. He was chargesheeted on 8 occasions during the 9 years period of his regular service. For the offence of unauthorized absence. He was given censure as a measure of punishment. The increment was postponed for a period of 3 months once on occasion his pay was reduced by three stages for three months without cumulative effect for the same offence committed by him. He was punished by demoting his cadre from greaser to Khalasi, Shore. During the pendency of the enquiry also he was irregular in attending duty 4 days in a month to eight days in a month respectively from March, 2002 to May, 2002. He denied that the other employees who were reinstated had attended regularly during the enquiry.

7. Sri M. Mutyala Rao, Personnel Officer in the Respondent organization deposed to the facts stated in the counter as MW1 and narrated the brief punishments given to him. In the cross examination he deposed that Sri Ch. H.V. Gilby and Sri S. Srinivasa Rao both Khalasis' punishment of compulsory retirement was modified into reinstatement on the minimum scale with punishment of withholding implementation of 7 years and 10 years respectively.

8. It is argued by the learned counsel for the Petitioner that he has been appointed in 1990 and was regularized in 1993 and he was dismissed in 2002. Hence, he may be shown mercy and reinstated into service.

9. The learned counsel for the Respondent argued that it is not a fit case to show sympathy as he has not improved at all and continued even after number of punishments to be absent and the punishment of compulsory retirement itself is lenient. Hence, the petition may be dismissed.

10. It may be noted that the Petitioner appears to be a chronic absentee and instead of that even when the last enquiry is pending, even then also he did not improve and absented himself and according to his own admission in the cross examination. However, he has been appointed on compassionate grounds and I am of the opinion that one more chance can be given to him. Hence, the order of compulsory retirement is modified as follows: "the Petitioner shall be appointed as Khalasi. Shore on the minimum scale of pay now applicable and shall be watched for three consecutive years and if he puts in minimum musters for three consecutive years then only his case for regularization shall be considered. His past services shall not be counted for any purpose including retirement benefits and he will be appointed as a fresh candidate".

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant, transcribed by her corrected and pronounced by me on this the 10th day of January, 2005.

E. ISMAIL, Presiding Officer

Appendix of Evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Sri V. Siva Prasad	MW1 : Sri S. Mutyala Rao

Documents marked for the Petitioner

Ex. W1 :	Copy of office Order No. A/Mech/Appel/HVG/98 dt. 30-4-2001
Ex. W2 :	Copy of order No. CME/E-I/M-I/PC 5415/792 dt. 24/25-7-2001.

Documents marked for the Respondent

NIL

नई दिल्ली, 18 मार्च, 2005

का.आ. 1430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आंध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 56/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12025/3/2005-आई आर (बी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workman, which was received by the Central Government on 18-03-2005.

[No. L-12025/3/2005-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, HYDERABAD**

PRESENT:

Shri E. Ismail, B. Sc., L.L.B., Presiding Officer:

Dated 7th day of February, 2005

Industrial dispute L.C.L.D. No. 56/2003

(Old I. D. No. 122/98 Transferred from Labour Court,
Guntur)**BETWEEN**

Sri M. Ramanandam,
B. 7-205, Kasipalem,
Buchireddypalem,
Nellore District (A.P.).

...Petitioner

AND

The Personal Manager,
Central Office,
Andhra Bank,
Sahifabad,
Hyderabad.

....Respondent

Appearances:

For the Petitioner : Sri G. Srinivasa Reddy
Advocate.

For the Respondent : M/s. S. Udayachala Rao,
S. Lavanya Lakshmi,
S. Vikramaditya Babu, S.
S. Mujib Kumar, Advocates.

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 by the Labour Court, Guntur in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 bearing I.D. No. 122/98 and renumbered in this Court as L.C.I.D. No. 56/2003.

2. The brief facts as averred in the petition are : that the Petitioner was working as a Bhagya Lakshmi Deposit Agent in the Buchireddypalem branch of the Andhra Bank in Nellore district from 5-7-74. On 15-7-87 the management reduced the commission rates and because the reduced rates are not acceptable to him the applicant submitted his resignation to the post on 15-12-87. But the same was not accepted and he continued till 2-5-88. On 29-12-87 the management restored the old rates of commission and as such the applicant submitted a letter dated 12-1-88 stating that he is withdrawing his resignation dated 15-12-87 since the management restored its commission rates. It is very much relevant to submit here that he submitted withdrawal letter while he was working with the management as stated supra. On 2-4-88 the management declined the request which is after three months of his withdrawing the resignation. According to this letter dated 2-4-88 he was discontinued from 2-5-88. He filed a writ before the Hon'ble High Court of A.P. was pleased to dispose off the said writ petition No. 18620/97 with a direction to approach this court. Hence, he may be reinstated.

3. A counter was filed stating that the Petitioner has entered into an agreement with the Respondent on 22-5-74 as per the terms and conditions mentioned therein. By that he was to be paid 2% commission or at such other rate that may be fixed by the Bank. When the Respondent reduced the rate of commission the Petitioner has terminated the agency on 15-12-87 in writing which was accepted by the bank. His later request for revocation of termination letter was rejected by the bank and the Petitioner did not choose to appeal for more than a decade and got filed a belated application on untenable grounds. The respondent submitted that the Petitioner was only an agent and there is no relationship of employer and employee between the Petitioner and the Respondent. That the said scheme of Bhagyalakshmi Deposit Scheme is not in existence at Buchireddypalem branch since 12 years. Hence, the relief sought by the Petitioner for reinstatement cannot be implemented even otherwise as it is a matter of agency, the Petitioner has to prefer a remedy before the Civil Court within a period of limitation. Hence, it may be dismissed.

4. The petitioner examined himself as WW1 and deposed that he joined the Respondent bank at Butchireddypalem branch and worked till 2-5-88. that due to reduction of commission he submitted his resignation

on 15-7-87. The Respondent did not communicate about the acceptance of his resignation. In the month of January, 1988 he came to know that the commission percentage was enhanced to old percentage and accordingly he was paid commission as per old rates. That on 12-1-88 he submitted a letter withdrawing his resignation. That he was paid his commission at the old rates along with the commission payable for the month of January, 1988. On 2-5-88 he was informed by the management that his resignation was accepted and asked him to stop collections. That he was discontinued from his service on 3-5-88. He was not given one month notice or paid notice pay and compensation at the time of his termination. Ex. W1 is the copy of his discontinuance order. That he made an application dated 6-5-96 to take him back into Service Ex. W2 is the copy of the said application. That he filed a writ petition in the Hon'ble High Court of A.P. Ex. W3 is the copy of the order in writ petition. Since the termination is illegal he is entitled for reinstatement with back wages. In the cross examination he deposed that he executed an agreement in favour of the bank at the time of joining as Bhagyalakshmi Deposit Collector, copy of which is Ex. M1. That he has written in 1988 to appoint him as agent. That he is not working as deposit collector after 2-5-88. He filed writ petition in the Hon'ble High Court of A.P. in 1997. It is true that he received a letter Ex. W1 stating that he should stop BLD collections forth with as his resignation is accepted. He is not given any written representation to the Bank or taken any steps after Ex. W1 is received till May, 1998 till he approached the Hon'ble High Court of A.P. in 1997 by filing writ petition No. 18620/97. In 1996 he happened to come across a reported decision in the daily newspaper regarding revocation of resignation after commission thereof. In 1996 he did not file any case in any forum. He filed writ petition in August, 1997. It is true that it is mentioned in Ex. W4 dated 1-8-96 that BLD scheme was wound up. In other branches like Kovvur, Nellore, Atmakoor. This scheme is going on even today but he has no proof of the same. In the further chief examination he deposed that Ex. W6 in which a statement of his SB account 1343 from January, 1988 to 1996 was given. He cannot state on which date the last transaction occurred. A pass book was given to him in respect of SB A/c No. 1343 but, he has not filed it in this case. He added that he do not have it with him now, it was misplaced. It is true that for every debit and credit entry there will be initials of the concerned officials in the pass book. Ex. W6 does not bear the initials in respect of any of the entries contained therein. Ex. W6 is not a certified copy. But has got a bank seal. But there is no date on the rubber stamp.

5. The management examined Sri. B. Prasada Rao, Law Officer in Andhra Bank and deposed to the said facts stated in the counter and he further added that the Petitioner by serving a notice dated 15-12-1987 terminated the agreement of agency entered into with the bank. Thus the agreement between the bank and the Petitioner came to

an end on 15-12-87. The Petitioner sought for renewal of the contract of agency later when commission was restored which was not considered by the bank. Thus the contract of agency between the bank and the Petitioner was put to an end on 15-12-87 by the Petitioner by serving the notice of termination of agency. The collection agents working in the public sector as well as private sector banks raised an industrial dispute seeking conferment of permanent employee status on them. The Tribunal passed an award in ID No. 14 of 1980 on 22-12-1988 directing that all those deposit collectors and agents who were below the age of 45 years on 3-10-1980 shall be considered for absorption in the posts of clerks and cashiers. All those who were unwilling to be absorbed, payment of fall back wages at Rs. 750/- per month linked with minimum deposit of Rs. 7500/- per month was ordered and the other directions are that they should be paid incentive remuneration at 2% for collection of over and above Rs. 7500/-. The same was challenged before the Hon'ble High Court of A.P., which modified the award. The Hon'ble Supreme Court was pleased to confirm the award as modified by the Hon'ble High Court of A.P. That the termination of agency by the Petitioner was long prior to the award of this Hon'ble Tribunal. Hence, he is not covered under the award.

6. In the further chief examination he marked copy of the award in ID No. 14/80 and 108/84 of the Industrial Tribunal-1, Hyderabad as Ex. M1. Copy of judgement in WP No. 9783/89 is Ex. M2. Copy of judgement in C.A. No. 3355 on the file of Hon'ble Supreme Court of India is Ex. M3. In the cross examination he deposed that he is working as Law Officer from 1988. That the notice issued by the Petitioner was a notice of termination of contract and not resignation. That they have not sent any written response to the notice. That immediately on receipt of notice the accounts were settled and he was discontinued. Though they are entitled for 3 months as per agreement they settled the account immediately. As per Ex. W1 Petitioner was asked to stop BLD Collections forthwith which was dated 2-5-88. He gave a notice on 15-12-87 and sent Ex. W5 dated 12-1-88 withdrawing the earlier notice dated 15-12-87. It is true that he represented on 13-1-88 and 4-5-88 to continue him and again wrote a letter Ex. W2 dated 6-5-96. It is correct in Nellore district in some branches they are continuing this BLD scheme. This Butchireddypalem branch also comes under Nellore district.

7. Arguments were advanced on the same lines by the learned counsel for the Petitioner as well as for the Respondent.

8. It may be seen that it is a well settled principle of law that the resignation can be withdrawn before it is accepted by the competent authority, here Ex. W1 admittedly is the acceptance letter dated 2-5-88. Before that, they have not even inform him. So obviously, it cannot be taken as if the said resignation has been accepted only on 2-5-88. There cannot be two questions about it. Whether

he has collected the amounts or not is also such a matter of question. But however, the very letter Ex. W1 dated 2-5-88 states that he therefore advise him to stop Bhagyalakshmi Deposit collections forthwith. Therefore, comes without saying that he was making collections till then by the own admission of the management. It is admitted by the Petitioner that he first approached the Hon'ble High Court of A.P. by way of writ petition in 1997 and His Lordship held that these are workmen and for that, we need not go into all those details. Suffice it to say that the order of the Tribunal in ID No. 14/1980 according to MW1 himself was upheld. So far as, commission is confirmed by the Hon'ble High Court of A.P. and the Hon'ble Supreme Court of India. It is not correct for the Respondent now to state that it was a prior adjudication. They are bound to apply the same as this Petitioner is appointed in the year 1974 and according to the Ex. W1 his agency was terminated from 2-5-88. But there are some latches on the part of the Petitioner also. From 1988 onwards even if his word is taken as correct that he was informed on 2-5-88. vide Ex. W1, but he kept quite till 1997, that too after reading a judgement as alleged by him, he approached the Hon'ble High Court of A.P., which in turn directed him to approach this Court. Again he slept over and he approached the Hon'ble High Court of A.P. after waiting for one year and again when the writ petition was disposed off by the Hon'ble High Court of A.P. on 28-3-97 at the admission stage itself, he immediately filed in 1997 itself. So what was the reason for him to keep quite from 1988 till 1997. Be that may be so. It is given in evidence that the scheme is not functioning there and it will serve no purpose. No doubt limitation is not provided but after such a long gap it will serve no purpose when the scheme itself is not in vogue in many stations.

9. However, the management is bound by the decision in ID 14/1980 and they themselves have filed before this Court was Ex. M1. Hence, the Petitioner will be entitled right from 3-10-1980 full back wages of Rs. 750/- per month or as applicable during the tenure, revised from time to time which ever is higher, from the date of 3-10-1980 till he was terminated on 2-5-88 because it has to be deemed that till that letter is received he was in service. So what all directions are given in the ID 14/1980 will have to be followed (vide Ex. M2) "Those who are unwilling to be absorbed as regular employees to be paid all back wages of Rs. 750/- per month linked with minimum deposit of Rs. 7500/- per month plus the incentive remuneration at 2% for collection of over and above Rs. 7500/-. Besides, such non-absorbed deposit collectors were also made entitled to conveyance allowance of Rs. 50/- per month for deposits of less than Rs. 10000/- and Rs. 100/- per month for deposits of more than Rs. 10000/- upto or above Rs. 30000/- per month. Besides, they were also entitled to gratuity of 15 days commission for each year of service rendered" and if there is any scope for appointing him as an agent his case will be considered under Bhagyalakshmi Deposit scheme in any of the branches of the Nellore district of the Respondent bank, in

future the Petitioner shall be given preference over others, giving relaxation of age and appointing him as BLD agent giving preference over others. However, this shall apply to future appointment only and should not disturb any present employee.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani (Smt.), Personal Assistant transcribed by her corrected and pronounced by me on this the 7th day of February, 2005.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	: Witnesses examined for the Respondent
WW1 : Sri M. Ramanandam	: MW1 : Sri B. Prasada Rao

Documents marked for the Petitioner

Ex. W 1 : Copy of discontinuation order dt. 2-5-88
Ex. W 2 : Copy of WW 1's representation dt. 12-8-97
Ex. W 3 : Copy of the order in WP No. 18620/97
dt. 12-8-97
Ex. W 4 : Copy of reply to Ex. W3
Ex. W 5 : Copy of WW1's withdrawal letter dt. 12-1-88
Ex. W 6 : Copy of statement of WW 1's SB A/c
bearing No. 1343

Documents marked for the Respondent

Ex. W1 : Copy of award in ID 14/80 & 108/84 of IT-I,
Hyd.
Ex. W2 : Copy of judgement in WP No. 9783/89
Ex. W3 : Copy of judgement in C.A. No. 3355

नई दिल्ली, 18 मार्च, 2005

का.आ. 1431.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आंध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 162/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12025/3/2005-आई आर (बी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 162/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in

relation to the Management of Andhra Bank and their workman, which was received by the Central Government on 18-03-2005.

[No. L-12025/3/2005-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B.,

Presiding Officer :

Dated 22nd day of December, 2004

INDUSTRIAL DISPUTE L.C. I.D. NO. 162/2003

Between :

Smt G. Narasamma,
R/o 5-13-2,
Indranagar Colony,
H.B. Colony,
Moulali,
Hyderabad.

...Petitioner

AND

1. The Manager,
Andhra Bank,
Kapra Sainikpuri Branch,
Secunderabad.
2. The Chief Manager,
Andhra Bank,
Zonal office,
Hyderabad.
3. The General Manager,
Andhra Bank,
Saifabad,
Hyderabad.

... Respondents

Appearances :

- For the Petitioner : M/s. G. Vidya Sagar,
K. Udaya Sri, P. Sudheer Rao,
B. Shivakumar &
D. Madhusudhan, Advocates
- For the Respondent : M/s. S. Udayachal Rao,
S. Vikramaditya Babu, &
S. Mujib Kumar, Advocates.

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri. U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are: that the Petitioner joined in the year 1978 as sweeper at Vidyanagar branch, Andhra Bank and subsequently for

services were regularized as a Sweeper in the year 1978. Subsequently she was promoted and transferred to Dilshuknagar branch in 1986 and later transferred to Chikkadpalli branch in 1987. She was posted as cash peon and posted at Sainikpuri branch in 1998. She was issued with a charge sheet that she has stolen two sealings of Rs. 50/- denomination amounting to Rs. 10000/- on 30-6-2001 from the cash after the Cashier Mrs. K. V. Muthu Lakshmi balanced the cash of the day. When search was made out the cash was found under the waste paper basket. That there was a commission that there is shortage of Rs. 10000/- and suddenly one officer Mr. Joshi asked the Petitioner to get the garbage basket from the stationery room and accordingly she brought the same and he immediately said that there is cash of Rs. 10000/- and after some time came to the Petitioner and asked her to sign on a paper and she being a laywoman signed on it. She was placed under suspension on 4-7-2001. Thereafter issued a charge sheet. That she was made unnecessarily a scape goat and enquiry was conducted. Three witnesses were examined and four documents were marked. That M. Ex 4 which is said to be confession statement is not written by her and she was punished by dismissal. On appeal the same was confirmed. Hence, her dismissal is illegal, arbitrary and hence, she may be reinstated.

3. A counter was filed. That the services of the Petitioner was regularized from 1978 as part time sweeper from 1-9-78. That on 30-6-2001 after the cash received from other cashiers was clubbed and balanced. There was a shortage and the main door of the premises was closed and search conducted. The Petitioner entered the room after a short while came out with a garbage basket. She was carrying a packet under the garbage basket. She informed that she was carrying garbage and nothing else. Mr. H.S. Joshi, Officer, seized the basket and opened the packet, two sections of Rs. 50/- denomination amounting to Rs. 10000 were found in the packet. That she was kept under suspension and an enquiry was conducted and she was dismissed and hence, she is not entitled for any relief.

4. The Learned Counsel for the Petitioner challenged the domestic enquiry but this Court by an order dated 12-4-2004 held that the domestic enquiry is validly conducted and it was posted for arguments under Sec. 11A.

5. The Learned Counsel for the Petitioner argues that the Manager was examined as MW1, Mr. M. Govardhan Reddy, Manager of the Kaprasainikpuri branch, that he was cross-examined and he stated that he does not remember who recorded the statement in the presence of each staff member. That there is confusion when it is said that the amount was found at 1.10 PM by the chargesheeted employee and it was kept in the stationery record room whereas it was stated that Mr. Madhusudan and Mrs. Muttulaxmi have informed that the cash was fully verified and handed over in proper manner, that difference is there

and further those two sections of Rs. 50/- were not ceased and kept aside. Then MW2 Mr. Y. Dwarkanath, clerk of K.S. Puri branch deposed that he found Rs. 10000 in her physical possession. MW2 has stated to a question that, "Do you agree that the confession statement of Narasamma was wrong?" MW2 answered "yes". Then MW 3 Mrs. Muttulaxmi, who also say that she has not kept the amount separately. So he suomits that this is only a concocted story to safeguard the others and Mr. H.S. Joshi, who noticed the chargesheeted employee carrying a packet of cash is not examined. When he is very much available in the bank. That some illegal activities have been going on, just to remove her this case was concocted, He therefore prays that she may be reinstated with back wages and fill rights.

6. It is argued by the learned Counsel for the Respondent that this Hon'ble Court has held by an order dated 12-4-2004 that the enquiry conducted is valid. That no less than a general Secretary of the Andhra Bank Award Employees Union assisted the Petitioner. Defence did not examine any witnesses. It is clearly established that two sections of Rs. 50 denomination were found in her possession. Hence, she is not entitled to any relief.

7. It may be noted that it is rather difficult to believe that all the staff members including the Branch Manager have concocted against her just to see that she is removed from service. No doubt technically the case might not have been proved to the hilt. But this is not a criminal Court to apply such yardstick. Suffice it to say that she has put herself in suspicious circumstances and the allegations apparently seem to be correct. Further, as there is some lacuna of doubt and as in the counter it is admitted that she was regularized as a part time sweeper from 1-9-78, hence, she has put in 23 years 9 months of service which can be taken as 24 years of service and hence, she be paid wages for 15 days per year i.e., she is entitled for last drawn wage multiplied by 12 within 30 days after publication of award failing which she will be entitled 6% p.a. interest also on that amount.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 22nd day of December, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the	Witnesses examined
Petitioner	for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 मार्च, 2005

का.आ. 1432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आंध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 196/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12025/3/2005-आई आर (बी. II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th March. 2005

S.O. 1432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 196/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Andhra Bank and their workman, which was received by the Central Government on 18-03-2005.

[No. L-12025/3/2005-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 4th day of January. 2005

INDUSTRIAL DISPUTE L.C. I.D. No. 196/2003

Between :

Smt N.V. Shyam Kumar,
S/o Bhushanam,
C/o M/s. G. Vidyasagar,

719, Sri Venkateswara Temple Lane,

Chikkadpalli,

Hyderabad

....Petitioner

AND

1. The Dy. General Manager (Personnel). &
Appellate Authority,
Andhra Bank, Head Office,
Saifabad, Hyderabad.

2. The Branch Manager,
Andhra Bank,
Malkipuram Branch,
Malikipuram,
East Godavari District.

... Respondents

Appearances :

For the Petitioner : M/s. G. Vidya Sagar,
K. Udaya Sri, P. Sudheer Rao, &
D. Madhusudhan, Advocates.

For the Respondent : M/s. S. Udayachala Rao,
S. Vikramaditya Babu, &
S. Mujib Kumar, Advocates.

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petitioner are : that the Petitioner has joined the Respondent bank on 8-6-84 as clerk-cum-cashier at P. Gannavaram Branch, East Godavari District. Later on he was transferred in the year 1994 to Malkipuram branch. On 21-1-2000 after the business hours are over at 2 PM while the Petitioner was tallying the cash with the vouchers, he found that there was a difference by Rs. 50,000/-. By that time it was about 2.30 PM and at that relevant point of time the Manager who is the joint custodian of the bank except the Petitioner all have left for lunch and there is no other officer available. Since the Petitioner was in a panic condition he tried to locate the customer to whom excess cash might have been paid. Thereafter the Petitioner left the branch at about 2.30 PM and tried to contact the Branch Manager who was available at his residence over telephone, but as the telephone lines are busy the Petitioner searched for the customer but in vein. As per the rules in the bank if the customer is not traceable the cashier who handled the cash at the relevant point of time is responsible for the cash shortage. Thereafter the Petitioner managed to get cash of Rs. 48000/- through hand loans and reported back to the branch at about 9 PM. The Branch Manager was also available at that time. The shortage of Rs. 50000/- was informed to the Branch Manager. He recorded the same in the entry and also recorded as late entry of cash of Rs. 48000/- and the shortages of remaining Rs. 2000/- was given on the next day morning at the opening of the business hours of the bank. However, the Petitioner was issued with proceedings dated 28-1-2001- and he was issued with a charge sheet dated 18-8-2000 alleging that the Petitioner left the branch without balancing of the cash without informing the higher ups and not returning to the branch immediately after the business hours and that not informing the cashier officer about the discrepancy in cash which is a misconduct under Clause 19.5 (j) of Bipartite Settlement and that he did not follow manual of instructions of cashier on 21-1-2000. That he gave an explanation. That the statement of Management witness clearly shows that the Petitioner brought Rs. 48000/- towards the making good the cash shortage of Rs. 50000/- and the same was shown in the records. That he could not

contact the higher ups and he could not make good the shortage. The punishment of compulsory retirement is shockingly disproportionate and unjust. Hence, he may be reinstated with back wages. Hence, the order dated 13-1-2002 imposing the punishment of compulsory retirement may be set aside and the Respondent may be directed to reinstate him into service with continuity of service with full back wages and other attendant benefits.

3. A counter was filed stating that the Petitioner was subject to number of disciplinary actions as detailed herein. (A) While the Petitioner was working as cashier at Mareduhillil branch one Mrs. C. Venkayamma, an illiterate tribal woman, was having a Kalpataru Term deposit dated 25-2-1985 for Rs. 3000/- due for maturity on 25-8-91 with maturity value of Rs. 6073.50 p.s. She has taken a deposit loan of Rs. 1000/- on 9-1-88 on the said deposit. She made part payment into the loan account of Rs. 500/- on 19-12-89 and Rs. 400/- on 17-3-90 respectively. When she visited the branch on 3-4-90 to pay the balance loan amount with interest of Rs. 339/- taking advantage of her illiteracy and innocence the Petitioner managed to obtain her thumb impressions on another set of loan documents for raising another deposit loan for his own unlawful pecuniary gain and raised a second deposit loan of Rs. 4000/- on 3-4-90 using the loan documents and misappropriated the loan proceedings. The depositor lodged a complaint against the Petitioner on 3-10-90. After an enquiry, he was awarded a penalty of stoppage of 4 annual increments with cumulative effect. The Petitioner did not challenge the penalty in the same forum and the same had attained finality. (B) He remained absent from duty for a period of 281 days and taken various other loans from the customers and failed to repay the same. He was imposed a penalty of stoppage of one annual increment with cumulative effect. The said penalty was also confirmed by the Appellate Authority and the same was not challenged and it became final. (C)

The Petitioner while worked in at Malkipuram branch made one Mr. Y. Joshua of Kakinada to believe that he would marry his daughter and had also taken a sum of Rs. 8000/- towards marriage expenses. But he married another girl and did not pay back the money taken by him. When repayment was insisted by Mr. Y. Joshua, the Petitioner issued a cheque for Rs. 1500/- without any balance in his account and executed a promissory note for the balance amount. Subsequently the Petitioner failed to honour his commitment. For this the Petitioner was warned. (D)

While he was working as the cashier at Malkipuram branch on 25-9-90 one, Mrs. E. Shyamala who was having a Savings Bank Account with the branch paid an amount of Rs. 400/- she made an entry in the pass book and returned the pass book after initialing the entry. However, he did not account for the amount in the relevant books of the bank. For this misconduct, the Petitioner was awarded penalty of withdrawal of special allowance which he was drawing as

Joint Custodian Cashier permanently. (E) the Petitioner has taken a credit card with an over all limit of Rs. 15000. He has misused the card exceeding the limit permitted. A sum of over Rs. 61000/- became overdue by 9 months as on 26-10-98. For this the Petitioner was cautioned.

4. That the Petitioner while working as cashier at Malkipuram branch left the branch at 2.30 PM along with his set of safe keys, looking his cash cabin and without informing anybody. When the Branch Manager contacted the members of the Petitioner's family intimated him that the Petitioner left the house after taking lunch. When he was about to lodge a complaint the Petitioner came to the branch at that hour, and revealed that there was a shortage of Rs. 50000 and he paid Rs. 48000 and he would good the payment of Rs. 2000. The Petitioner did not report the cash shortage to the Manager immediately. It is also learnt that he did not meet any customer. Petitioner was placed under suspension by order dated 28-1-2000 and the punishment of compulsory is not disproportionate to the alleged misconduct.

5. On 28-7-2004 this court has passed an order holding that the domestic enquiry is validly conducted.

6. Written arguments were submitted by the Learned Counsel for the Petitioner stating the said acts stated in the petition and further argued that he has followed the manual of instruction which was agreed by the management witness himself. In fact the suspension order dated 28-1-2001, was revoked by proceedings dated 31-8-2001 The Enquiry officer held that charges 1 to 5 are proved and charge No. 6 is not proved. The compulsory retirement dated 31-1-2007 is shockingly disproportionate. The irregularities mentioned in the charge sheet dated 18-8-2000 are not established on the basis of evidence adduced. There is no loss to the bank. There was no mala fide intention on the part of the Petitioner, otherwise why should he take the trouble of returning in the night with Rs. 48000/- and remaining Rs. 2000/- was also made good on the next day at the first hours of business. Hence, he may be directed to be reinstated with full back wages etc.

7. It is argued by the Respondent's counsel that in the enquiry he was given a defence representative Mr. Kondala Rao, and the enquiry has been held valid by this court and the witnesses were throughly cross examined and this Court has held that the domestic enquiry is validly conducted and the allegation against him that, had he found the discrepancy he would have immediately informed to the Branch Manager instead of going out at 2.30 PM and reported the Branch Manager at 9 PM. keeping his background of various punishments awarded to him and his over-spending as in the credit card, it can be safely presumed that this was not a shortage but a voluntary act. Hence, he prays that the order compulsory retirement may be upheld.

8. It may be seen that at 10:30 PM on 21.1.2000 the petitioner has gone and reported about the shortage of Rs 50000/- and also gave Rs. 48000/- as admitted by the Management witness himself Mr. Ch. Hanumantha Rao who deposed that the shargsheeted employee informed him that at 10:30 PM that there was shortage of Rs. 50000/- and he paid Rs. 48000/- with him and next day he paid Rs. 2000/- with him. So, apparently there is no loss except not following the procedure of the bank. So seeing his record, which is not a happy one. He has been recruited on 3-6-84 and he has been dismissed on 31-1-2002. So he has put in 18 years of service and he has given the punishment of compulsory retirement in which I think would keep him also safe and the interest of the bank's customers. However, taking into consideration that it was a technical mistake and he has paid Rs. 48000/- on the same day and the balance of Rs. 2000/- on the next day and what he says that he got panic may also be correct because already having to his credit so many punishments he might have thought that this may add fuel to the fire. Hence, an award is passed holding that the order of compulsory retirement dated 31-1-2002 hereby confirmed, however, besides all his retirement benefits, i.e., PF, Gratuity etc., in order to make him settle in his life as there is still doubt that he might have really got panic and there may be genuine shortage of Rs. 50000/- and the subsequent conduct in bringing the Rs. 48000/- in the same night and Rs. 2000/- in the next day. I am of the opinion that some other relief also can be given to him Hence, he shall be paid 9 months pay within 30 days after publication of this award as per his last drawn pay failing which he shall be entitled to 6 % p.a. simple interest, after 30 days of publication of this Award.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowari, personal Assistant transcribed by her corrected and pronounced by me on this the 4th day of January, 2005.

E. ISMAIL, Presiding Officer.

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 मार्च, 2005

का.आ. 1433.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 55/2003)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12025/3/2005-आई. आर (बी. II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1433.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Union Bank of India and their workman, which was received by the Central Government on 18-03-2005.

[No. L-12025/3/2005-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

**PRESENT : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer :**

Dated the 10th day of January, 2005

INDUSTRIAL DISPUTE L.C. I.D. NO. 55/2003

(Old I. D. No. 108/2000 Transferred from Labour Court,
Guntur)

BETWEEN:

Sh. P. Anjaneyul,

S/o Veera Swamy,

C/o Sri V. Mallik,

Advocate, 3-6-725,

Street No. 11 Himayathnagar,

Hyderabad-500029

....Petitioner

AND

1. The Assistant General Manager,
Union Bank of India, Netaji Complex,
Kaleswara Rao Road, Governorpet,
Vijayawada.

2. The Manager,
Union Bank of India,
Purchur, Prakasam District.

... Respondents

Appearances :

For the Petitioner : Sri V. Mallik, Advocate

For the Respondent : M/s. C.R. Sridharan, G.
Narender Reddy & G.V.S.
Ganesh Advocates

AWARD

This is a case taken under Sec.2 A (2) of the I.D. Act, 1947 by the Labour Court, Guntur in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-95 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-1102611/2001-IR(C-II) dated 18-10-2001 bearing I.D. No. 108/2000 and renumbered in this Court as L.C.I.D.No. 55/2003.

2. The brief facts as mentioned in the petition are: That the petitioner was working as sub staff under 2nd Respondent as attender as per instructions of the first Respondent Management in July, 1992 and he worked continuously till May, 1993. While to he was retrenched without complying Sec. 25F of the Industrial Disputes Act, 1947. However, he was again engaged as sub staff during the year 1994 and worked was continuously till 1996. Again he was retrenched without complying the procedure. Again taken as sub staff on 18.5.96 till 8.8.98. Again he was retrenched in the month of August, 1998 while retrenching he was not given any notice or compensation. Hence, he may be taken back.

3. A counter was filed stating that he was retrenched on 8-8-98 he worked continuously etc.. are false. The claimant was working as casual labour on daily wages from 19.1.94 to 7.11.97 as shown in the annexure. He was paid daily wages as and when his services were engaged. He never worked as sub staff. His daily engagement terminates automatically at the end of that days work. The same would not amount to retrenchment as contended by the claimant. The dismissal will not amount to retrenchment. Hence, the petition may be dismissed.

4. The petitioner examined himself as WW1. He deposed that the schedule given with the counter is not correct. That he worked continuously from January, 1994 to April, 1996 and from 18.5.96 to 8.8.98 without interruption. That he had maintained ledger book and he has done specific works and he has given a list. Therefore, he prays that he may be reinstated. In the further chief examination he deposed that Ex.W1 is the office copy of the notice dated 28.11.99. Ex.W2 is the postal acknowledgement. Ex.W3 is the postal acknowledgement of R2. In the cross examination he deposed that the date of termination is 8.8.98. He denied that he worked as a casual worker and denied that he never worked for 240 days in a year.

5. Sri R. Venkataramaiah, Senior Manager(P) of the Respondent bank deposed as MW1. He gave the details of the period from the Petitioner was engaged and deposed that he never worked for more than 100 days in a year except in 1997 where he had worked for only 139 days. He never worked as sub staff. In the cross examination he replied to Ex.W1 notice.

6. It is argued by the learned counsel for the Petitioner that the Petitioner has worked for more than 240 days continuously in a year and therefore in compliance with Sec. 25F, gives him a right to be reinstated with back wages. Hence, the petition may be allowed.

7. The Respondent's counsel argues that he never worked for more than 240 days in a year and for casual employees Sec. 25F is not attracted. Hence, the petition may be dismissed.

8. It may be seen that even according to the Petitioner, list submitted by him from 9.4.96 till 8.8.98, there are 109 entries even if that is to be taken as correct there is no proof that he worked for 240 days in a year or more. Hence, I am afraid he is not entitled for any relief, however, in future if R2 has to appoint any casual employee, preference will be given to the Petitioner over others taking his age as on the date of his first appointment.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 10th day of January, 2005.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witness examined for the Petitioner	Witness examined for the Respondent
WW1 : Sri P. Anjaneyulu	MW 1 : Sri R. Venkataramaiah

Documents marked for the Petitioner

Ex. W1 :	Copy of the notice dt. 28-11-99 issued to R1 & R2
Ex. W2 :	Postal acknowledgement of R1
Ex. W3 :	Postal acknowledgement of R2

Documents marked for the Respondent

Ex. M1 :	Bunch of vouchers (34) from 19-1-94 to 7-11-97
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नई दिल्ली, 18 मार्च, 2005

का.आ. 1434.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आंध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 184/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-12025/3/2005-आई आर (बी-II)]

एन. पी. केशवान, डेस्क ऑफिसर

New Delhi, the 18th March, 2005

S.O. 1434.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 184/

2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Andhra Bank and their workman, which was received by the Central Government on 18-03-2005.

[No. L-12025/3/2005-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT, HYDERABAD

PRESENT:

Shri E. Ismail, B.Sc., LL.B.,

PRESIDING OFFICER:

Dated 14th day of February, 2005

INDUSTRIAL DISPUTE L.C.L.D. No. 184/2003

BETWEEN

Shri T. Vijay Kumar,
S/O Late Bhushanam,
H.No. 3-207/C, Nayanagar, Colony,
Kodad, Nalgonda district.

...Petitioner

AND

1. The General Manager, Andhra Bank, Sahibabad, Hyderabad.
2. The Dy. General Manager (P), And Appellate Authority, Andhra Bank, Head Office Saifabad, Hyderabad.
3. The Asst. General Manager, and Disciplinary Authority, Personnel Department, Andhra Bank, Zonal Office, Warangal Post and District

....Respondents

Appearances:

For the Petitioner	M/s. B. Nageswara Rao, C. Vijaya Shekar Reddy & S. Vijay Venkatesh, Advocate
For the Respondent	M/s. S. Udayachal Rao, S. Vikramaditya Babau and S. Mujib Kumar, Advocates

AWARD

This is a case taken under Sec. 2 A(2) of the I.D. Act, 1947 in a view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3.8.1995 between Sri U. Chinnapa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are: That the Petitioner was appointed in the Respondent bank in 1995 at Tanduru branch in the year 1985. he had rendered 18 years of service. The Petitioner while working as Joint Custodian cashier, he along with Mr. T. Madhusudan, Joint Custodian officer were placed under suspension on 27.6.2002 and 12.7.2002 respectively alleging that they have committed certain irregularities and further they were negligent in discharging their duties as Joint Custodian Cashier and Joint Custodian Officer at Kobad branch. Thereafter both of them were issued charge sheets. Both of them denied the charges. The Joint Custodian Officer got a punishment of stoppage of one increment whereas the Petitioner was imposed a major punishment of compulsory retirement for the same charges. The Petitioner's last drawn salary was Rs. 14,200/-. It is submitted that the charge is on 27.6.2002 he along with Mr. T. Madhusudan, Joint Custodian Officer, closed cash with a shortage of Rs. 1,05,460/- and an excess amount of Rs. 281.03 ps in change resulting in an overall shortage of Rs. 1,05,178.77 ps. It is submitted that the Petitioner has entered 4 debit vouchers aggregating Rs. 1,04,650/- (1) FDR for Rs. 1,00,000/-, (2) AGB for Rs. 3,500/- (3) SB for Rs. 1,000/- (4) SB 13124 for Rs. 150/- were paid by the Petitioner as late cash transactions. The said payments were made by him only after duly informing the Joint Custodian Officer, Mr. T. Madhusudan. The fact that the said late transaction was passed on 27.6.2002 and authorized by the concerned officials, proves that they are bonafide and genuine transactions.

On 26.6.2002 at about 1.30 PM he received a message that his aunt who brought up the Petitioner from childhood died on 26.6.2002 at 11 AM at Vijayawada. Since he received the message he requested the Manager to grant leave to him. However, he was permitted to go after closing the cash counter. While the Petitioner was closing the cash counter there was a request from a valued depositor for signature of an FDR for Rs. 1 lakh. Petitioner had obliged the depositor duly informing the officer and made the payment of Rs. 1 lakh telling the officer as late cash payment. The Petitioner had also made other three payments under late cash since it is a salary day and the same was done with the knowledge of the officer. Since it is TBM branch, there was no provision of entering late cash payment into the system and the same was kept along with cash. The Joint Custodian Officer duly verified the cash, it was kept in safe. That as per the statement of allegations, it is clear that the Petitioner has arrived closing balance and kept the cash intact. Only after putting the denominations in cash denomination scroll the payments were effected which were kept along with as per procedure. Regarding authentication of vouchers officers told him that while entering in to the system of the same be authenticated. As petitioner was in hurry to go to Vijayawada, the Petitioner kept the cash in the safe in the presence of Joint Custodian. On the next day, i.e., on 27-6-2002, morning i.e., at 10.30

AM inspectors came and verified the cash. The inspector had called the depositors who took the payment in late cash and had ascertained the facts. The depositor acknowledged the facts of receiving the payment of Rs. 1 lakh on 26-6-2002 inspite of that the Petitioner was placed under suspension and served with suspension order on 28-6-2002, the inspectors have obtained signature from Petitioner coercion on 27-6-2002 at 5.30 PM after passing all late cash payments. Regarding shortage of Rs. 500/- in So.'s Section Petitioner submits that the Nalgonda District Co-operative Bank is having a current account with the branch and regularly they will be remitting huge cash around Rs. 5 lakhs to 10 lakhs mostly in low denominations. Since the counting on the spot affects the regular customers and cause delay the same will be counted later and any shortage in the sections will be counted later and any shortage in the sections will be adjusted/replaced by the Nalgonda District Co-operative Bank. This is a regular practice. With regard to excess of change Petitioner submit that one customer has brought some change for which he requested notes. Petitioner had accepted the change and he had given notes as per the request of the customer resulting in some excess of coins. That an enquiry was conducted and the Enquiry Officer has not given any finding with regard to the major item of the charge i.e., Rs. 1 lakh. Much is said about the enquiry, as it is conceded that the enquiry is validly conducted, that need not be gone into. Then the Petitioner requested that he may be reinstated with all consequential benefits and continuity of service.

4. A counter was filed stating that the Petitioner was working as Joint Custodian Cashier at Kodad branch of the Respondent bank. One Mr. T. Madhusudan was also working as Joint Custodian Officer at the said branch. The said branch was inspected by the Inspectors of branches on 27-6-2002. They noted that against the balance of Rs. 36,78,663.67 ps. noted in the Denomination Register, the cash actually available was Rs. 35,71,484.70 ps. Thus, there was a shortage of Rs. 1,05,178.97 ps. That he was placed under suspension with immediate effect. Mr. T. Madhusudan was also placed under suspension from 12-7-2002. An enquiry was conducted. The Petitioner did not examine himself as a witness. That all the charges were held proved by the Enquiry Officer. That none of the vouchers he has submitted to be late cash payments. The denominations of the payments were also not recorded. They are grave offences and Mr. Madhusudan has reposed confidence in the Petitioner which was proved incorrect. Hence he was given only minor punishment. Accordingly, the Petitioner may be dismissed.

5. The Learned Counsel for the Petitioner conceded that the domestic enquiry was validly conducted. Hence, arguments were advanced under Sec. 11A by both the counsels for the Petitioner and for the Respondent.

6. The same things were repeated by the Learned Counsel for the Petitioner as stated in the petition. He further argues that the allegation that there is an overall shortage of cash for Rs. 1,05,178.97 ps is not true and the same is not established in the enquiry proceedings. MW3 also deposed in the enquiry that there was a difference of Rs. 528.97 ps. only. He also deposed that it is not possible to enter in the computer the late cash transactions on the same day of late cash payment and it can be only entered on the next day in the computer. That the bank was not put to any loss by the Petitioner. Hence, he may granted he relief sought for.

7. The same things were repeated by the Learned Counsel for the Respondent as stated in the counter and he further argues that the manual of instructions is mandatory and he has violated the same. All the charges levelled against him are proved in the enquiry. Hence, he is not entitled for any relief.

8. In order to appreciate the rival contentions of both the Advocates, let us see the charge sheet. That the cash balance as per register should be Rs. 36,76,663.67 ps. against which only Rs. 35,71,484.70 ps. were available. Along with cash 4 debit vouchers aggregating Rs. 1,04,650/ were found. That the Petitioner contended that they represent 'late cash payments'. None of the vouchers were authorized by any officer at the time of verification. Denominations of the payments were not recorded in the vouchers. A withdrawal of Rs. 150 in S.B. A/c No. 13124 of a temporary sub staff was temporarily accommodated.

9. Next let us go through the enquiry proceedings and the enquiry report. One Mr. J. Guru Murthy, Inspector of branches, the only question that was asked in the cross examination was, whether any late cash payment was made by the Petitioner, he said yes. In the enquiry report the Enquiry Officer assessed the findings and the Enquiry Officer has concluded about this Rs. 1,04,000 and odd payment, that the chargesheeted employee has kept the debit vouchers inside the safe as late cash payments without proper authorization and authentication of the concerned officer and without denominations of cash paid on the vouchers and none of the vouchers were authorized for payment and denominations on the vouchers were not on the vouchers is proved. Similarly, he held that charge regarding shortage of Rs. 528.97 ps. on 26-6-2002 is proved. Similarly, Rs. 150 was paid to the sub staff when the balance in the account was only Rs. 7.51 ps. was also proved. He accommodated him by paying Rs. 150. It was argued by the Learned Counsel for the Petitioner that actually the other person Mr. T. Madhusudan is equally responsible who has given only stoppage of one increment whereas this Petitioner is dismissed. In the appeal the dismissal was changed to compulsory retirement treating the entire period of suspension as continuous service for the limited purpose of pension if he is a pension optee.

10. It may be noted that the Petitioner has not examined himself, had he examined himself any other hidden facts would have come out. He has not even filed death certificate of his deceased aunt. But he says that according to the document filed by the bank itself he converted himself from SC to Christianity and foregone all the privileges and protections available to the members of SCs. So actually it is only a question of late cash payment and shortage of Rs. 500 and odd. As per page 19 of the documents filed by the Respondent the cash shortage is only Rs. 528.97 ps. after the above late cash payments are taken into account. The statement of Mr. T. Madhusudan is at page 44 of the documents filed by the Respondent, where he says that the Petitioner has made certain payments in late cash and those sections were also kept in the safe. As per the procedure, the late cash payment transactions had to be entered into books and should be recorded in the scroll next day but in computer system there is no provision for recording, posting and passing of the transactions of late cash. Since they normally sign the instrument only after posting, passing and scrolling of the transaction, but he did not sign the instrument on 26-6-2002. That temporary staff should be paid wages on that day i.e., on 26-6-2002. But due to pressure of work his payment could not be made. So, he submits that Mr. T. Madhusudan himself has corroborated, is the stand taken by the Petitioner. So the discrepancy is only of Rs. 528.97 ps. Should he be penalized by dismissal? When two officers are similarly situated, it should not be treated different one being given a minor punishment and the other being given a major punishment. Is the discrimination is because he is originally SC, having converted into Christianity?

11. Mr. T. Madhusudan, Officer in the bank has written a letter to the appellate authority and Dy. General Manager (Personnel) that the Petitioner, Mr. T. Vijaya Kumar is a senior staff member having very good reputation. During October, 2001 to January, 2002 Mr. Madhusudan had to act as Incharge manager of the branch as the Manager did not join the branch. He further stated, "On 26-6-2002 as usual the Cashier informed him that he had made certain payments in late cash and those instruments were also kept in the safe. As per procedure the late cash payment transaction has to be entered in the books and should be recorded in the scroll of the next day. But in computerized system there is no provision for recording posting/passing of the transactions of late cash. Since we normally sign the instrument only after posting, passing and scrolling of the transaction, I did not sign the instrument on 26-6-2002. The temporary sub staff have to be paid wages on that day. But due to pressure of work on 26-6-2002 his payment could not be made with a view to make the payment of wages next day, the L.C. was allowed as it was only a nominal amount."

12. Now, it was argued by the Learned Counsel for the Respondent that after all one is coming to the rescue of

the other. Mr. T. Madhusudan is also responsible, although the major responsibility lies with Mr. T. Vijaya Kumar, the Petitioner herein. But Mr. Madhusudan was also equally responsible that is why he has given the Petitioner a clean chit. Mr. Madhusudan was given only a minor punishment of stoppage of increment and the fact that the said late transactions were passed on 26-6-2002 and authorized by the concerned officers, proves that they are *bona fide* and genuine transactions.

13. However, in the domestic enquiry the Petitioner marked an exhibit which shows the date of death of his aunt as 26-6-2002 and that the 11th day ceremony will be performed on 6-7-2002 at their own house situated at Vijayawada. That the order of dismissal dated 3-3-2003 may be set aside which was later modified by the Appellate Authority to that of compulsory retirement. Now, the question is whether the Petitioner can be given any relief. The allegation is that it was only a oral instruction and none of the vouchers, the Petitioner wrote, 'late cash payment' or the denominations were also not recorded. He ought to, however much he may be in a hurry, not to have disburse the cash or if he had done so he should have made the word of 'late cash payment' vouchers and noted the denominations of the notes also. No doubt, Mr. Madhusudan has come to his rescue by saying that he took oral permission and not only that the Petitioner asked DW1, Mr. G. Venkateswar Rao, Clerk in Kodad branch to take the keys but he did not take. DW1 deposed that the Manager asked Mr. Vijaya Kumar to attend office on 27-6-2002. DW1 attended office on 27-6-2002 although he has applied for leave, the reason given by him was as the Marriage was in the early hours on 28-6-2002 for which he had applied leave, he attended on 27-6-2002. The fact that the death of the Aunt of the Petitioner took place is clear from the evidence of the MW3 and MW1 is Mr. Guru Murthy, Inspector of branches, who in the cross examination deposed that 'late cash payment' are made by T. Vijaya Kumar, Cashier on 26-6-2002 and MW2 is Mr. M. Sai Joga Rao who said he is working in Kodad branch as an officer since 29-1-2001, that he has taken keys from Mr. Madhusudan, Sub-Manager but it is not noted in the key movement register as the safe was closed by that time. Hence, it could not be entered. So the entire charges boils down to 'late cash payments', in not writing as 'late cash payment' and not noting the denominations and the shortage is only of Rs. 500/- and odd. No doubt, it is a grave irregularity. But all the witnesses admit that in the computer system it is not possible to note down the next day's transactions on that day and only on the next day it will be noted. So the only fault appears to be on his part is not noting down the 'late cash transaction' and the denominations of the notes and making payment to the temporary sub-staff and over all shortage is of Rs. 528.97 ps. The other persons Mr. T. Madhusudan has been given the penalty of withholding of only one increment. Although as per manual of instructions, Volume

I, instruction No. 10, the joint custodian cashier should verify the cash with the Cashier completely and satisfy himself that it is in order and various other instructions are given, which are, 10.1, 10.2, 10.3, 10.4 and 10.5 etc. It is not as if his duties are only nominal as contended by the Respondent. So he has also failed in his duties and his letter wherein he gives a clean chit to the Petitioner and he admits that he had made certain payments in cash and those instruments were also kept in the safe. So it is not as if it is a case of mis-appropriation. Even, Mr. Guru Murthy, Inspector of branches was examined as MW1 during the enquiry also deposed that there were 'late cash payments' made by the Petitioner on 26-6-2002.

14. It may also be noted that there were number of soiled notes also. No doubt, as discussed supra his fault lies not in noting down the word 'late cash payment'. However, misappropriation cannot be attributed to him and the shortage falls to only Rs. 528.97 ps. As there are no previous allegations against him and since it is not a case of misappropriation or cheating and as the other person Mr. T. Madhusudan has been given the penalty of withholding only one increment and I am of the opinion that the Petitioner deserves a lenient punishment and not such a severe punishment as that of a compulsory retirement. He has been compulsorily retired on 8-7-2003 and he has been out of job from that day till now and therefore he has already undergone sufficient punishment having been out of job from 8-7-2003. Hence, an award is passed in the following terms: The Petitioner shall be reinstated on or before 1-6-2005 on the same cadre as that of Joint Custodian Cashier or equivalent post but on the minimum pay scale now payable to the Joint Custodian Cashier. The period between the compulsory retirement and the reinstatement on or before 1-6-2005 shall not be treated for terminal benefits, but, services from the date of joining till his compulsory retirement shall be calculated for terminal benefits. If he had been paid any retirement benefits, the same shall be adjusted at the time of his superannuation.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 14th day of February, 2005.

E. ISMAIL, Presiding Officer

APPENDIX OF EVIDENCE

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 मार्च, 2005

का.आ. 1435.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, ई.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण असनसोल (संदर्भ संख्या 14/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2005 को प्राप्त हुआ था।

[सं. एल-22012/26/1996-आई आर (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1435.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/1997) of the Central Government Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of ECL and their workmen, received by the Central Government on 18-03-2005.

[No. L-22012/26/1996-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Shri Md. Sarfaraz Khan, Presiding Officer

REFERENCE No. 14 OF 1997

PARTIES:

Agent, Kumardihi, 'B' Colliery of ECL, Ukhra, Burdwan

....Management

Vs.

Sh. Kanta Bouri, Dresser represented by
Colliery Mazdoor Union, Ukhra, Burdwan

....Workman

REPRESENTATIVES:

For the Management : Sri P. K. Das, Advocate.

For the Workman (Union) : Sri M. Mukherjee,
Advocate.

INDUSTRY : COAL STATE : WEST BENGAL.

DATE : 23-02-2005

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), Government of

India through the Ministry of Labour vide its Order No. L-22012/26/96 (C.II) dated 10-3-97 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Kumardihi 'B' Colliery, Bankola Area of M/s. ECL in dismissing Sh. Kanta Bouri from services w.e.f. 18-12-94 is legal and justified? If not, to what relief the workman is entitled?"

2. In pursuance of the receipt of the order of aforesaid reference summons were issued to the respective parties through the registered post with A/D and having received the summons both the parties appeared through their representatives who filed their respective written statements in support of their claims.

3. The case of the delinquent workman in brief compass as set forth in the written statement is that Shri Kanta Bouri was the permanent employee of E.C. Ltd. who was posted then at Kumardihi 'B' Colliery.

4. The main case of the workman concerned is that he was suffering from regular fever and as such he could not attend his duties since 24-3-92. Later on the disease was detected as T.B. and he got himself treated in T.B. Hospital. The delinquent employee got himself treated by local doctors and subsequently after being dissatisfied with the treatment he got himself treated in Primary Health Centre since 20-9-92. After becoming fit when he reported for duty on 1-7-94 he was not allowed to join his duty, on the other hand he was issued with a chargesheet. He replied the chargesheet but the management proceeded to hold an enquiry into the said chargesheet.

5. The further case of the workman is that no proper opportunity was given to the workman during the enquiry to defend his case and subsequently he was dismissed from service without serving the copy of the order of dismissal. It is also said that due to his being very poor health he has filed an application dated 5-7-94 requesting the management to refer him to medical board for assessment of his fitness. But the management has not paid any heed to his request and dismissed him from his service. The quantum of punishment has been challenged to be too harsh and disproportionate to the gravity of the offence. As such the workman has sought the relief for his reinstating in service with full back wages.

6. On the other hand the case of the management in short is that the instant reference as raised by the union over the dismissal of Kanta Bouri is bad in the eye of law.

7. The main defence of the management is that the ex-workman Dresser in the colliery had absented himself from his duty unauthorisedly from 24-3-92 to 30-6-1994 without any prior permission or sanctioned leave and as such he was chargesheeted vide charge-sheet dated 1-7-194. It is also the case of the management that since

the concerned workman failed to submit any satisfactory reply to the charge-sheet, a domestic enquiry was held in which the workman was given the full opportunity to defend his case in the said enquiry in accordance with the principles of natural justice and the charges levelled against him was fully established. The attendance of the concerned workman for the last three years has been shown as 69 days in the year 1991 and Nil in the year 1992 and 1993. It is also denied by the management that the workman, due to his illness, could not attend his duty and no proper opportunity was given to the workman to defend his case and the punishment awarded is not justified and proper. It is claimed that the Disciplinary Authority after due consideration of the enquiry proceeding along with its report, chargesheet and other materials was fully satisfied with the same and having regard to the past record of service the ex-workman was dismissed from his service vide order dated 3/9-12-94. It is prayed that the action of the management be held to be justified and the workman is not entitled to get any relief.

8. On perusal of the record it transpires that the learned lawyer for the workman concerned did not raise the issue for hearing on the preliminary point as regard the fairness and validity of the enquiry proceeding. So it will be deemed and presumed that the validity and fairness of the enquiry proceeding was not challenged and the same will be presumed to be fair and valid as admittedly the workman concerned had participated in the enquiry proceeding.

9. From the perusal of the pleadings of the parties and the materials available on the record it transpires that there are certain facts which are admitted one. So before entering into the discussion of the merit of the case it is necessary to mention here the following admitted facts.

- (a) It is the admitted fact that Sh. Kanta Bouri, Dresser, was the permanent employee of ECL being posted at Kumardihi 'B' Colliery.
- (b) It is also the admitted fact that the delinquent workman absented from his duty unauthorisedly w.e.f. 24-3-92 to 30-6-1994 i.e. more than two years without any prior permission or sanctioned leave for which a chargesheet dated 1-7-94 was issued against him.
- (c) The further admitted fact is that the workman was chargesheeted and he had submitted his explanation to the chargesheet and an enquiry proceeding was conducted against him in which he had participated and submitted the Medical Certificate with regard to his absence from duty which was not relied upon by the enquiry officer.
- (d) As per the norms and the settled principles of law the facts admitted need not be proved. In that point of view I do not want to go in detail discussion of the admitted facts.

9. The record goes to show that the management has taken the plea in para 1 of its pleading that the instant reference is not legally maintainable as the same is misconceived one and bad in the eye of law. But the said issue was neither pressed nor raised by the management at the time of hearing of the dispute. Beside this the management has also not examined any oral witness or filed any chit of paper on this score. As such in the prevailing facts and circumstance of the case I do not find any defect in the maintainability of the said reference and the facts of the case very well comes under the purview and scope of the Industrial Dispute Act, 1947. The Govt. of India through the Ministry of Labour has rightly referred the dispute to this Tribunal for its adjudication and accordingly this issue is decided against the management.

10. The record further goes to show that none of the parties has examined any oral witness in support of their case. No document has been filed from the side of the management. A photo-copy of the Medical Certificate has been filed by the side of the union to show the circumstance of his absence from duty during the relevant period.

11. Now let us see as to how far the order of dismissal of the delinquent employee from his service by the management is legal and justified.

From the perusal of the record it transpires that the union has taken a plea in para 2 & 3 of its written statement that the said workman was suffering from regular fever and as such he could not attend his duty since 24-3-92. Subsequently it was detected and diagnosed to be T.B. and he got himself treated in the T.B. Hospital where he was treated for 6 months. It is further pleaded that he got himself treated in the primary Health Centre since 20-9-92 and after becoming fit he reported for duty on 1-7-94 but he was not allowed to join his duty and the chargesheet was issued.

12. On the other hand it has been specifically denied by the side of the management vide para 6 of its written statement that the ex-workman due to his illness could not attend his duty and no opportunity was given to him to defend his case.

13. It is obviously clear from the pleading of the side of union that neither the validity or fairness of the enquiry proceeding has been challenged nor there is any whisper even about the non-consideration of the absence on the medical ground of the workman during the relevant period. It is apparent from the pleadings of both the parties that the chargesheet was duly received by the workman and he had replied the said chargesheet but the same being not satisfactory a domestic enquiry was held by the management which held the workman guilty for an unauthorized absence.

14. From the side of the union a Medical Certificate dated 19-9-93 granted by a lady doctor specialised in Gyne

& Obstetrics posted in the Primary Health Centre has been filed. She is not a physician nor specialised in medicine. Besides this no prescription has been filed to show the treatment of the disease ulcer. The lady doctor concerned has granted the certificate of her treatment w.e.f. 20-10-92 to 19-9-93 and declared the workman fit to resume his duty on 20-9-93. The workman has taken the plea of absence due to regular fever and subsequently suffering from T.B. But unfortunately not a single chit of paper in this regard has been filed in the court. Taking the workman's view even of the certificate granted by the lady doctor is accepted for a moment it will not be at all helpful to the workman concerned as there is charge of his unauthorised absence w.e.f. 24-3-92 and the Medical Certificate of his treatment is w.e.f. 20-10-92 i.e. after seven months of his absence he got the treatment of his disease ulcer. There is clear-cut contradiction on the point of disease for which the workman was suffering. The workman was suffering from fever and T.B. but the treatment was made for the disease ulcer. The disease of fever, T.B. or ulcer is not such a serious disease which does not give time to the patient to take the prior permission from the management or give any information to the management about his disease and the treatment going on during the relevant period if any. These all facts and circumstances lead to the conclusion that the workman concerned was deliberately on unauthorised absence continuously for two years without any cogent reason. Besides this his past conduct is also not good as his attendance sheet right from 1991 go to show that he was present on duty only for 69 days and subsequently in the year 1992 & 1993 his attendance is Nil which is highly condemnable.

15. In view of the above facts, circumstances and the discussion made I am satisfied to hold that the enquiry officer has rightly held him guilty for an unauthorised absence of a long period of two years without any satisfactory explanation. I am further satisfied to hold that the order of dismissal passed by the management in the facts and circumstances of the case can not be said to be disproportionate and the action of the management of Kumardihi 'B' Colliery, Bankola Area of M/s. E.C.L. in dismissing Shri Kanta Bouri from service w.e.f. 8-12-94 is legal and justified. As such it is hereby.

ORDERED

That let this reference of the dispute be dismissed without cost and the parties shall bear their own cost. Accordingly the award be and the same is passed. Send the copies of the award to the Govt. of India, Ministry of Labour for information and needful.

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 18 मार्च, 2005

का.आ. 1436.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.एस.सी.एल. प्रबंधन के

संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या 228/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-22012/273/2000-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 228/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 18-03-2005.

[No. L-22012/273/2000-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 4th day of February, 2005

INDUSTRIAL DISPUTE NO. 228/2002

BETWEEN:

The Area Secretary (Sri D. Muthaiah)
Singareni Collieries Company Ltd. (Regd. No. E-203)
Sreerampur Area, RK-8 Dispensary,
Sreerampur-504 303. Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur Area (Projects),
Sreerampur-504 303. Respondent

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar.
K. Udaya Sree, P. Sudheer
Rao & B. Shivakumar,
Advocates.

For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi & C. Vijaya
Shekar Reddy, Advocates.

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/273/2000-IR (CM.II) dated 22-3-2002

referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the employers in relation to the Management of M/s. Singareni Collieries Company Ltd., and their workman.

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur (Projects) Area, Sreerampur in dismissing Sri K. Upender Rao, Clerk, GR-I/Ravindrakhani-7 incline w.e.f. 21-5-1998 is legal and justified? If not, to what relief the workman is entitled to?"

This reference was registered as Industrial Dispute No. 228/2002 and notices were issued to the parties.

2. The brief facts averred in the claim statement are as follows : that the Petitioner was appointed as plant attendant at CCC under the Respondent Management w.e.f. 1-2-1980 having been sponsored by the employment exchange under the ST category, as the Petitioner belongs "Mannervaru" tribe. The said tribe has been notified as ST as per the constitution (Scheduled Tribes) Order 1950, Sl. No. 12 of the Schedule Part-I (Andhra Pradesh). The Petitioner's name was sponsored by the employment exchange under ST category on the basis of a certificate issued by Veterinary Assistant Surgeon, Ramayampet, Medak District. The candidature of the Petitioner as sponsored by the employment exchange, was duly considered by the Selection Committee and he was appointed as Plant Attendant. Subsequently, for the post of Clerk Gr. II and he has been working as such since 1988. The charge sheet was issued to him dated 6-6-95 alleging that he belongs to "Nayakwadi" which does not fall under ST category, yet he has obtained the service by false representation. Further, he has been claiming LTC/LLTC on behalf of his parents since 1982 though his father is working in Government service as teacher in Government High School, Medak. That he gave his explanation denying charge No. 1 and claiming that LTC/LLTC was claimed due to ignorance. Yet, he was dismissed. He moved for conciliation. The conciliation ended in failure and the failure report was submitted by the Assistant Labour Commissioner (Central), Mancherial on 17-8-2000. Hence, the reference. That in enquiry neither the MRO is examined nor the Mandal Revenue Officer who made enquiries was examined. Hence, the enquiry is not valid and so far as charge No. 2 is concerned that was due to his ignorance and he was prepared to refund the amounts and it was a procedural irregularity. Hence, he may be reinstated.

3. A counter was filed stating that the Petitioner secured job under the ST quota on the basis of a certificate said to have issued by a Veterinary Doctor. As per rules, the MRO or District Collector, is competent to certify the caste of an individual. That upon a complaint received by the Respondent that the Petitioner does not belong to ST category the matter was referred to MRO, Medak to make a

detailed enquiry. A detailed enquiry was conducted. That a reading of the reference shows that he was practically given up the claim of his caste. Only it is mentioned about the dismissal. Hence, a Nil Award may be passed.

4. Arguments were heard about the validity of domestic enquiry and this Court by a detailed order dated 6th August, 2003 held that the domestic enquiry is not validly conducted. Accordingly, the Management examined Sri T. Panduranga Rao, Dy. Personnel Manager as MW1 and he deposed the facts stated in the counter. That the Petitioner secured employment in the company as plant attendant in coal mechanical complex, against ST quota. It was found that he has taken it by falsely claiming as he belongs to ST category. Although he does not belong to 'Mannervaru' caste but belongs to 'Nayakwadi' caste. Further it was confirmed that the Petitioner's father was working as a teacher in Government New High School and his date of retirement was 30-7-1995. Thus, Petitioner's father being an employee of the Government school is not a dependent as claimed by the Petitioner in his LTC and LLTC claims. He was also cross examined.

5. The Petitioner examined himself as WW1 and stated the same facts in the chief examination as mentioned in the claim statement. In the cross-examination he admitted that he secured the employment claiming that he belongs to Mannervaru caste of ST community. It is true that actually belongs to 'Nayakwadi' Community. It is not a community, it is a profession. It is not true to suggest that 'Nayakwadi' community does not fall under ST category.

6. It is argued by the learned counsel for the Petitioner that this Court by an order dated 6-8-2003 held that the domestic enquiry is not validly conducted. Accordingly, the management examined MW1 who is Deputy Personnel Manager, who deposed to the said facts and he was cross-examined. The Petitioner also examined himself as WW1. He admitted that he secured employment in the company that he belong to 'Mannervaru' caste of SC community. He also admitted that he has obtained LTC for all the family members. Punishment as held by the Hon'ble Court for the said LTC cannot be so harsh as of dismissal. Because, the main charge is about obtaining job on a fake certificate. He submits that there is a procedure for cancellation of the certificate of caste given where under Sec. 5 of the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 lays down.

7. He argues that in 1999 Supreme Court cases (1, 2 & 3) page 613 wherein the facts of the case were that the applicant Gulzar Singh was issued caste certificate on 10-10-98 stating that the appellant belongs to Majbhi Sikh caste which is a recognized Scheduled Caste. The Grievance of the appellant was restricted to the decision communicated to him by the Sub-Divisional Magistrate, Gurdaspur dated 3-6-97 whereby certificate No. 9336 dated

10-10-1998 was cancelled. The said certificate was cancelled due to an enquiry where it was found that the Petitioner belongs to Christian community when it was challenged, High Court dismissed it. Their Lordships of the Supreme Court held that from the facts on record prior to the cancellation of the Scheduled Caste certificate no show cause notice was given to the appellant. Their Lordships set aside the Judgement of the Hon'ble High Court dated 3-6-97 leaving it to the Respondent to take action in accordance with law. He also cited a Judgement reported in 1997 Supreme Court cases (L&S) 1825 wherein it was held that caste certificates issued upto 11-11-89 by the Tahasildar are valid. He also relied on a Judgement of Hon'ble High Court reported in 1999 (3) ALT page 48 wherein his Lordships held that in submitted reports of the MRO and Sub-Collector is in violation of principles of natural justice and remitted back the matter to Joint Collector. He also relied on 1996 LAB I.C. page 1890 wherein, person was dismissed from service where he was employee of the Canara Bank. Several years later it was held that the Petitioner did not belong to Scheduled Caste but Ramakshatriya caste. Hence, an enquiry was conducted and Petitioner was dismissed. His Lordship held unless revocation of caste certificate is effected by competent authority employee cannot be dismissed from service on the ground of misrepresentation. His Lordship observed the powers to issue caste certificate and the power to revoke is limited to the designated authorities and that power could not be exercised by the enquiry authority appointed by the employer in case the employee is found to have secured employment by misrepresenting his caste, the finding recorded by the Enquiry Officer that employee does not belong to reserved category would have the effect of overruling the caste certificate which was issued by the competent authority or in other words of revoking the caste certificate. It is impermissible for him to do either of this and therefore the consequent action of dismissing the employee from service taken by the employer will have to be struck down. The employer ought to have referred the matter to the competent authority which was not done. Even back wages were granted. He also relied on 1999 (3) ALT 45 wherein the caste certificate was set aside by the Joint Collector. His Lordship held that only the Collector has got powers and set aside the cancellation. He also relied on an unreported judgement in WP 360001 of 1998 wherein the finding of the enquiry committee was set aside and directed the District Collector to conduct the enquiry. He also relied on a Division Bench Judgement of the Hon'ble High Court against the writ appeal against the same Judgement and in the said writ appeal their Lordships stated that the caste community certificate was not cancelled by the competent authority therefore a direction was issued to the competent authority namely District Collector, Nellore to conduct a complete enquiry from the date of receipt of the said order and submit the report in the mean time the management was directed to reinstate the Petitioner.

8. The Learned Counsel for the Respondent argued that above cases are not applicable. The witnesses were examined in the Petitioners' presence. He was given a fair opportunity to cross examine them an Enquiry Officer gave his findings with reasons. The Petitioner obtained the job on false certificate claiming himself to be Mannerwarlu caste while he belongs to the Nayakwadi caste. Hence, the reference may be ordered against Sri K. Upendra Rao.

9. It may be seen that the charge sheet is about claiming of LTC right from 1982 and it has been admitted by the Petitioner himself and he claims that he does not know the correct rules about it. Be that may be so. Where fault itself is sufficient to dismiss or not, I cannot consider it independently of the other charge where the main charge is about filing a false caste certificate. Sec. 5 of the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 lays down where, "... obtained a false community certificate..... District Collector either *suo motu* or by written complaint call for the record and enquire the correctness of the certificates..". He shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation. So Sec. 5 is very clear that the competent authority is Collector and in the Judgements cited by the Learned Counsel for the Petitioner reported in 1996 LAB I.C. 1990 Karunakar Vs. Canara Bank wherein it was also a case, where the Petitioner had obtained employment claiming himself to be SC-C. he was not and the same was found by the Enquiry Officer. His Lordship held that the Enquiry Officer is not competent authority to give finding as to the validity of the caste certificate unless revocation of caste certificate is effected by competent authority employee cannot be dismissed from service on the ground of misrepresentation. His Lordship not only directed reinstatement but also back wages. An unreported Judgement, copy of which is filed, WP No. 36001 of 1998 by our High Court wherein also APSRTC is the main Respondent who removed the claimant from service held that it was for the District Collector to enquire into the genuineness of the certificate and set aside the impugned proceedings.

10. But further, as the Petitioner himself has admitted about his LTC, I answer the reference as follows : "the action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur (Projects) Area, Sreerampur in dismissing Sri K. Upendra Rao, Clerk, Gr-I/Ravindrakhani-7 incline w.e.f. 21-5-1998 is not justified as the enquiry officer is not competent under the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997. Hence I herein direct the Respondent of course, as the second misconduct is proved that is, LTC, to reinstate the Petitioner on the minimum pay scale as Clerk, Gr. I on or before 1st May, 2005 and the company shall refer the matter in writing to the concerned District Collector for cancellation of the said certificate

under Sec. 5 of the Act and then on the receipt of the report from the District Collector, shall take action against the Petitioner for submitting, if it is proved that it is a false certificate as per law and as a word of caution in future the Respondent shall not accept any certificate issued by a Veterinary Assistant Surgeon or Doctors or any other Gazetted Officer except that the certificate is issued properly by competent authority under the above said Act. Otherwise it leads to lot of complications. However, if the Petitioner is not appointed on the minimum pay scale of clerk cum cashier on or before 1-5-2005 he shall be entitled to payment of minimum pay of Clerk Gr. I, from 1st May, 2005. The question of payment of back wages will abide by the findings of the District Collector to whom a formal written complaint should be made and the Collector shall conduct enquiry under Sec. 5 of the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 after giving opportunity to the Petitioner.

Award passed accordingly. Transmit

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 4th day of February, 2005.

E. ISMAIL Presiding Officer

Appendix of evidence

Witnesses examined for the

Petitioner	Witnesses examined for the Respondent :
WWI : Sri K. Upender Rao	MWI : Sri T. Pandu Ranga Rao

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1	: Minutes of selection committee dt. 18-9-1979
Ex.M2	: Copy of caste certificate dt. 9-6-1976
Ex.M3	: Lr. No. A/3035/94 dt. 8-7-94 of MRO
Ex.M4	: Declaration of dependents by WWI dt. 15-12-1982
Ex.M5	: Declaration of WWI about family members dt. 24-1-1987
Ex.M6	: LTC claim form
Ex.M7	: Dependent certificate declaration issued i.r.o. WWI's father
Ex.M8	: Lr. Dt. 19-4-94 by the H.M. G.N.H. School, Medak about WWI's father's particulars.
Ex.M9	: LLTC claim form

Ex.M10	: LTC claim form
Ex.M11	: Copy of list of candidates sponsored by the employment exchange
Ex.M12	: Copy of service record of the Petitioner's father
Ex.M13	: Bio-data submitted by WWI to the Management
Ex.M14	: LTC pay sheet
Ex.M15	: LLTC pay sheet
Ex.M16	: Copy of interview call letter to WWI dt. 6-8-79
Ex.M17	: Copy of charge sheet dt. 6-6-95
Ex.M18	: Copy of Lr. No. Department(C)SRP(P)/95/95/891 dt. 30-9-95/4-10-95
Ex.M19	: Explanation to the charge sheet by WWI dt. 5-8-95
Ex.M20	: Copy of Lr. No. SRP(P)/P(IR)/13/97/783 dt. 22-3-97
Ex.M21	: Explanation dt. 21-4-97
Ex.M22	: Copy of dismissal order dt. 11-5-98

CORRIGENDUM

New Delhi, 18th March, 2005

S.O. 1437.—In this Ministry's Notification No. L-41011/57/95-IR(B-1) dated 11th January, 2005, published in Gazette of India vide S.O. No. 458 dated 11th January, 2005, the name of the workman appearing in the 4th line of first paragraph i.e. "Shri P. V. Sureshan" may be deleted and the word "workman" appearing before Shri P. V. Sureshan may be read as "Workmen".

[No. L-41011/57/95-IR(B-1)]

B. M. DAVID, Under Secy.

नई दिल्ली, 18 मार्च, 2005

का.आ. 1438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं० 2, नई दिल्ली के पंचाट (संदर्भ संख्या 224/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं० एल-12012/117/1998-आई आर (बी-11)]

एन०पी० केशवन, डैस्क अधिकारी

New Delhi, the 18th March, 2005

S.O. 1438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 224/98) of the Central Government Industrial-cum-Labour Court,

New Delhi No. II as shown in the Annexure in the Industrial Dispute between the Management of Syndicate Bank and their workmen, received by the Central Government on 18-03-2005.

[No. L-12012/117/1998-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, RAJENDRA BHAWAN,
GROUND FLOOR, RAJENDRA PLACE,
NEW DELHI**

PRESIDING OFFICER: R.N. RAI

I.D. NO. 224/98

IN THE MATTER OF:

Sh. Jagat Singh,
1/75, Guru Kirpa, Sadar Bazar,
Delhi Cantt.-110010

Versus

The Assistant General Manager,
Syndicate Bank, Zonal Office,
6, Bhagwan Dass Road, Sarojini House,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-12012/117/98-IR (B-II) Central Government DT. 4-12-1998 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the Asstt. General Manager, Zonal Office, Syndicate Bank, New Delhi in dismissing from services to Sh. Jagat Singh, Clerk of Syndicate Bank, Emp. No. 100412, R.K. Puram, Sector V Branch w.e.f. 19.3.1996 is justified and proper? If not, what relief the concerned workman is entitled to”.

The workman has filed statement of claim. In his statement of claim, it has been stated that the workman was in regular employment of the Respondent Bank in non Subordinate cadre and was dismissed illegally w.e.f. 19-3-1996. That the management first put the workman under suspension w.e.f. 2-7-1993 and subsequently charge sheeted the workman under para 19.5 (J) of Bi-Partite settlement 1966 on 7-1-1994 dt. 31-12-1993 and after that management lifted the suspension.

That D.S.O.I. lodged F.I.R No. 124/93 dt. 14-4-1993 with the police and the Hon'ble Court took cognizance of the offence w.e.f. 21-3-1995 over the same subject matter over which the management had charge sheeted the workman and still the trail is on foot. The very fact of the trail by the Hon'ble Court was brought to the notice of the management. But the management hurried to go ahead with the departmental proceedings and even dismissed the workman for the same set of charges for which trail is still

on foot. That getting aggrieved with the illegal action of the management the workman approached the Hon'ble High Court of Delhi by way of Writ No. 251/97 for quashing the illegal order of the Respondent. But the Advocate for the workman, due to the bogus affidavit of the Respondent wrongly and mischievously made statement. But the Hon'ble High Court directed the workman to raise an industrial dispute within 15 days from the order and the appropriate Government shall pass necessary orders there on within four weeks referring the dispute to the Industrial Tribunal. The same shall be considered and disposed of by the Industrial Tribunal, as expeditiously as passable. That accordingly the workman raised the Industrial Dispute under Section 2A of Industrial Disputes Act, 1947 which ended in failure because of adamant attitude of the management.

That the suspension and charge sheet was served in haste in order to please and oblige the High Officials of defence and D.S.O.I. Through the charge sheet it was alleged that the workman was performing the duties of cashier. Whereas Enquiry Officer stated in his report the workman as spl. Asstt. and in final order of the disciplinary authority the workman was as officer-in-charge of the D.S.O.I. Extension Counter. That the charge sheet was served after two different investigations by two different officials namely P.N. Hagde and M.P. Mallya on the strength of the complaint. First by the Secretary D.S.O.I. for F.I.R and secondly by Maj. Gen. V.K. Sharma Dy. QMG Army Head Quarter. But neither the complaint of Maj. Gen. V.K. Sharma was produced nor the investigation report were produced even after the demand of defence. P.N. Hagde was not even adduced as management witness. On the other hand management deposed wrongly and mischievously before the Hon'ble High Court of Delhi through an affidavit of Sh. G. Raghunathan Senior Law Officer dt. 5th/7th April, 1997 on behalf of the management stated there in at page 271(I). The documents alleged in this ground are of no relevance. But at the same time at page 272(P) stated that the contents of ground P are wrong and denied. The Preliminary enquiry report of PN Hagde was part of the inquiry record and was Proved by Shri P.N. Hagde who appeared as a witness.

That the management wrongly and mischievously deposed in the Hon'ble High Court on page 271(J). The petitioner was independently and singly handling the cash and the cash box was operated by him alone. But on page 70(A8) M.P. Mallya admitted that I Was shown a safe outside the strong room in which Jagat Singh was authorised to keep the cash. But on page 264(6) and 265(7) wrong statement regarding the operation of the Safe. But in charge sheet on page 17 management mentioned about safe. But Enquiry Officer on 109 mischievously not mentioned any thing about the fact.

That Sh. P.N. Hagde investigated the matter of FIR allegation of Rs. 71000. The management before the Hon'ble

Court deposed on page 264(3) that Rs. 71000 is not part of this charge sheet. But the fact behind curtain is Rs. 71000. The police arrested Mr. R.K. Malik for Rs. 71000 and arrested the workman for the same charges mentioned in the charge sheet dt. 31.12.1993 issued by the Respondent. But the management before the Civil Judge Sh. S.K. Aggarwal on page 187(6), that it is also denied that the charges are based on the same set of facts again : on page 189(10), the departmental action is not based on the same set of facts as involved in the criminal prosecution. But the seizure memo of the police and statement of Mr. M.M. Mallya before the police from page 99 to 101 but deposed mischievously before the Hon'ble High Court on page 265(6). The charge sheet dt. 31.12.1993 was altogether different from the FIR lodged by the D.S.O.I. which was for different incident. This shows that the erring management can deceive any of the Hon'ble Court just to deny justice and just to save their sin in the matter of intentional unfair Labour Practice.

That the management mischievously made self contradictory deposition on page 269(D) and page No. 267(12) in the matter of personal hearing. But it is evident from page 160 to 184 that the Appellate Authority knowingly, intentionally and mischievously denied justice by dismissing the appeal. The appeal from page 160-166 contains 37 facts. Personal hearing from page 71 to 183 contains real and legal facts.

In Syndicate Bank, the erring management proposed and the erring leaders of the union desposed. The management framed conspiracy against the workman under pressure of D.S.O.I. and Maj. Gen. V. K. Sharma Dy. QMG of AHQ, N. Delhi and took into confidence the leaders of the Syndicate Bank employees union J. P. Sharma State Secy. Delhi and K. Umesh Nayak General Secretary and then the workmen director on the board of the Respondent. This fact is evident from page 102 to 106 and from page 107 to 131 and shows that the erring management and erring leaders worked with colourful and thereby violated the Industrial Disputes Act, labour laws and Bipartite Settlement and are responsible for resorting to intentional unfair labour practice and comes under Sec.-25-T and 25-U of I.D. Act 1947. In this way the management destroyed the workman and his family.

That the record of investigation, Enquiry proceeding and Enquiry Report shows that the Spl. Foot of the chief Vig. Officer Head Office, was firstly in the shoes of MP Mallya (IO) secondly in the shoes of Daya Shankar Rao (EO) thirdly in the shoes of P.S. Shetty (DA) due to this fact, mischievously first was bound to investigate against the workman only, second was bound to hold the workman guilty of all the charges. Third was bound to dismiss the workman on the basis of colourful and bogus Enquiry Report just to convert his dismissal into VRS because no AGM was ready to sign the sleeping and colourful order. The mischievous intention of management is on record.

The erring management particularly posted MP Mallya in Delhi and Chief Vig office directly handed over the case to him. This fact was admitted by MP Mallya on page 47 para-II of MW-2. As per the instruction given by Chief Vig Officer HO Manipal he conducted detailed investigation into the alleged delayed credit. Further on page 69 Ans. to Q. No. 1 admitted that the complaint was some where during April/May, 1993 and the complaint copy has been duly forwarded to HO Vig Cell, as per HO Vig Cell's instruction he has conducted the investigation. But on page 47 para No. 1 of MW-2 MP Mallya admitted that he joined the Vig Cell on 3-6-93. Further the enquiry officers also stated on page 112 para 3 that he conducted investigation as per instruction from Chief Vig Officer HO Manipal. But the fact is that after my dismissal MP Mallya got transferred to HO of his own choice, P.S. Shetty got VRS instead of Dismissal. This is the principles of natural justice. All got colourful benefits for the dismissal of the workman.

That the charges No. 38 and 39 of page 18 are not tallied with No. 9 and 10 of page 19. The charge No. 23 of page 18 is for Rs. 69800/-. But the deposition No. 24A on page 51 is for Rs. 68800/-. The charge No. 28 on page 18 for Rs. 116000/-. But the deposition No. 29A on page 53 is for Rs. 116800/-. But on page 19 charge no. 11 two amounts are shown. One is Rs. 229500/- and at the same time 229580/-. It shows the form of colourful charge sheet and Enquiry Report and how mischievously Enquiry Officer held the workman guilty of all the charges. Where as the Enquiry is illegal and vitiated for principal of natural justice.

That the following charges in the charge sheet are entirely different from the charges in the final order. Therefore the whole colourful enquiry Report and colourful order of disciplinary authority are illegal and unconstitutional and vitiated Principles of natural justice due to this fact Enquiry Officer and Appellate Authority did not mention about the charges by saying the charges appearing against the workman are more fully narrated in the charge sheet cited in orders.

S. No.	Amount in charge sheet	Amount in final order
	Page No. 17-19	Page 150-151
4	86500/-	85500/-
23	69800/-	68800/- Page
38/9	51800/-	52800/-
	102300/-	103300
39/10	50500/-	50500/-
40	229580	229580
		229500
57	248650	249650

The above facts on record show the colourful and malafide intention of the erring management against the workman.

That regarding MW-1 Enquiry Officer knowingly and mischievously took seven lines from page No. 41 to page 47 and ignored the facts on recorded by stating scientific examination and method. Enquiry Officer hide the fact of Ans. No. 9-10 and 13 of page-46. In last Ans. is colourful and indirect way MW-1 said that he is not liable for his opinion in any manner to wards judicial authority and better opinion can be obtained from some where. MW-1 refused to say any thing about MEX 52 A & B are in the hand writing of D.S.O.I. employees. Therefore particular 18 slips are also in the hand writing of DSOI employees. Because the condition of 18 slips are the same like MEX 52A & B. In reply to Q. No. 72 on page 85 he submitted that out of 64 slips only 62 slips are available, out of 62 slips only 18 slips are in the handwriting of Jagat Singh. It is clear that rest 44 slips including MEX-52A & B are in the handwriting of D.S.O.I. employees. But the handwriting of MEX-52A & 52B is the same as on 18 slips, and MEX 52A & B bears full particulars at the back and bears the same printer mark. Therefore MP Mallya mischievously sent for expert opinion. On the other hand the chief manager of the branch at page 100 deposed before the police that he knows the signature and handwriting of the workman. Therefore the mischievous opinion of the expert is wrong and illegal, and Enquiry Report and final order vitiates the principles of natural justice.

The management has filed written statement. In the written statement, it has been stated that in reply the contents of para (a), it is not denied that the workman was employed with the respondent bank. But, it is specifically denied that he was dismissed illegally, as alleged. The contents of para (b) are matter of record. However, it is submitted that the suspension of the workman was lifted pending enquiry on humanitarian grounds and at his request only.

The contents of para (C) are wrong and denied. It is wrong and denied that DSOI lodged an FIR and the concerned Court took cognizance over the same subject matter over which the management has charge sheeted the workman, as alleged. It is hereby submitted that the respondent management has not lodged any FIR against the workman, nor is a party to the criminal proceedings pending against the workman. The allegation against the workman before the Criminal Court are distinct and different from the allegations made in the charge sheet issued by the respondent bank to him, and for which enquiry proceedings were initiated against the workman. Further more, steps for prosecuting the workman was not taken by the management and the same were taken by one of the customer of the respondent bank, therefore, the provisions of bipartite settlement does not apply for this case. However, it is settled law that pendency of criminal case is

no bar for conducting departmental enquiry in the same matter, unless specifically directed by the Court before which such criminal proceedings are pending, as such the allegations of the workman are totally false and frivolous.

It is denied that the action of the management was illegal and false affidavit was filed by the respondent bank and any mischievous statement was made by the respondent bank, as alleged. The filing of writ petition and the order passed by the Hon'ble High Court are matter of record. However, it is submitted that since the writ petition was not maintainable, therefore, the same was rightly dismissed by the Hon'ble High Court.

It is denied that suspensions and charge sheet was served in haste and to please and oblige the high office of defence and DSOI, as alleged. The contents of charge sheet, enquiry report and final order, as referred in this para, are matter of record. However, it is submitted that the workman was working as clerk and was given special assistant duties and was officer-in-charge of evening cash counter for DSOI.

It is stated that initially the investigation against the workman was conducted by Shri P.N. Hadge. Investigation Officer, since the matter was serious, therefore, the investigation was handed over to the vigilance department and the management is well within their rights to conduct the investigation as per their wishes and the workman cannot agitate or protest. It is further submitted that the workman cannot claim that any particular witness to be produced by the management as their witnesses and if at all he thinks the management has not produced any particular witness, he is at liberty to produce the same as his witness. It is also submitted that the charges against the workman, as levelled in the charge sheet, were not based upon investigation report and the very purpose of conducting the investigation is to see whether any prima facie evidence is there, so as to take appropriate disciplinary action against the employees, therefore, the workman cannot protest or agitate for non-filing of investigation report.

It is denied that Shri P.N. Hadge investigated the matter of FIR allegations of Rs. 71000. It is further denied that the workman was arrested for the same charges, as levelled in the charge sheet, as alleged. The contents of pleadings, seizure memos and statements, as referred in this para, are matter of record. It is hereby submitted that the workman has been misinterpreting and has misunderstood the same. It is further stated that the FIR lodged by DSOI and charge sheet was for different incidents. The contents of rest of the para are false, frivolous, hence wrong and specially denied. It is denied that the management has any intention to deceive the Hon'ble Court of indulging in any unfair labour practice, as alleged.

It is denied that the statements made by the management are contradictory, as alleged in this para. It is further denied that the appellate authority intentionally and mischievously denied justice to the workman by dismissing his appeal. It is further denied that there has been any delay on the part of the management, while disposing of the appeal. It is submitted that the workman is misinterpreting and has misunderstood the pleadings and their contents. And it is also denied that the appellate authority dismissed his appeal, without any reason, as alleged. It is specifically denied that the management is indulging in any unfair labour practice, as alleged. It is denied that the management wrongly, mischievously deposed before the Hon'ble High Court, as alleged. It is further denied that there has been any delay in deciding his appeal by the appellate authority. It is submitted that all the allegations are false and frivolous and have got no relevance and no prejudice would be caused to the workman.

It is denied that the management has any bad intentions, as alleged in this para and it is further denied that the management has framed any conspiracy against the workman under the pressure of DSOI and Maj. Gen V. K. Sharma, Dy. QMG of AHQ, New Delhi and the Union leaders, as alleged. It is denied that the management violated any rules and indulged in uncolourful and unfair labour practice. It is pertinent to mention that the workman is levelling allegations against his own representative i.e. Mr. J. P. Sharma and K. Umesh Nayak, who represented him during the enquiry and, therefore, the conduct of the workman can be adjudged by his acts and it is also denied that the management has destroyed his family, as alleged.

It is denied that the record of investigation, enquiry proceedings and enquiry reports shows that the special foot of the Chief Vigilance Officer, Head Office was first in the shoe of M.P. Mallya, secondly in the shoe of Daya Shankar Rao and then in the shoe of P. S. Shetty, as alleged. It is denied that any colourful charges are levelled in the charge sheet and enquiry report. It is further denied that mischievously the inquiry officer held the workman guilty of charges. It is also denied that the enquiry conducted against the workman was illegal, and violated the principles of natural justice, as alleged. It is submitted that the enquiry was conducted as per the rules and was fair and proper. The workman is making false and frivolous allegations against the management.

It is denied that the inquiry officer ignored the facts on record and it is further denied that the enquiry officer has hidden any facts, as alleged. It is denied that the 18 slips, as referred in this para, were in the handwriting of DSOI employees. The contents of documents, as filed before enquiry are matter of record. It is hereby submitted that if at all workman thinks some documents were not sent for the experts opinion by the bank, the workman was free to send the same and obtain the opinion of the Expert. It is

denied that the opinion of the expert was wrong and illegal and it is further denied that the enquiry report and final order were vitiated, as alleged.

It is denied that the workman was mischievously and wrongfully held guilty by the Enquiry Officer and it is further denied that the enquiry report and final order are against the principles of natural justice. The contents of the enquiry proceedings are matter of record and anything contrary to the same is wrong and specifically denied. It is denied that the Chief Vigilance Officer wanted to bring K. Umesh Nayak as Defence Representative to hold the workman guilty. It is denied that the inquiry officer permitted K. Umesh Nayak without the consent of the workman to assist his defence representative, as alleged.

The workman cannot agitate for non-production of the complaint of Mr. V. K. Sharma, as alleged. Since the charges levelled in the charge sheet were based on independent documentary evidence, which were produced. It is denied that the Disciplinary Authority ignored the facts, as alleged in this para and passed illegal orders in a hurry and left the workman under VRS, as alleged.

It is denied that the workman was not guilty of the charges, as levelled in the charge sheet. It is stated that the charges were proved during the enquiry and the allegations levelled in this para are frivolous and after thought. It is denied that the final order was not speaking and was a sleeping and was passed with *malafide* intentions, as alleged. The contents of sub para (a) to (d) are wrong and denied. It is denied that the enquiry officer intentionally and mischievously ignored the deposition of MW-3. The contents of the statements, as referred in this para, are matter of record. But it is hereby stated that the workman is misinterpreting the same as per his whims and it is hereby denied that the enquiry officer was holding the enquiry with understanding illegally and ignoring the facts, as alleged.

The workman applicant has filed rejoinder and in his rejoinder he has reiterated the averments of statement of his claim. The management has denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Preliminary issue regarding fairness of the inquiry was not pressed in this case so Award is given on the entire merits of the case.

It is necessary to mention the charge sheet served upon the workman applicant in short. He was charge sheeted that between 26-04-1992 and 30-10-1992 while functioning as Clerk at Dhaula Kuan Brnach he was intrusted with the duties of receiving evening cash from the Defence Services Officer Institute and Station Canteen. He was required to deposit late/evening cash on the next working day with the main Cashier of the Branch for credit of the amount in the account of the depositor. On 64

occasions he did not deposit the amount on next date. He was further charge sheeted that he placed and prepared on the record separates credit pay-in-slips on 19 occasions instead of original pay-in-slips tendered by the party. Thus misappropriated amount received from the Defence Services officer Institute for a temporary period by accounting the same in the books of the branch after some delay ranging from 1 to 8 days and to conceal his act of temporary misappropriation of amounts tendered by DSOI he prepared and placed on record on 19 occasions different pay-in-slips other than the original pay-in slips tendered by the party and his above act tantamounts to gross misconduct within the meaning of Clause No. 19.5 of the bipartite settlement.

It was submitted from the side of the workman applicant that First Information Report (FIR) was lodged by Shri O.P. Malhotra retired Colonel Secretary under Section 408 Indian Penal Code (IPC) regarding embezzlement of Rs. 7,00,000/- (Rs. Seven Lacs) and it has been alleged that the DSOI has embezzled Crores of Rupees as such First Information Report (FIR) was lodged by a different agency to Central Bureau of Investigation (CBI) and enquiry was conducted by the Bank. Shri Daya Shankar Rao was appointed Inquiry Officer. Shri J.P. Sharma, State Secretary, SBI, Delhi State Committee was appointed DR of the workman applicant. The management has examined MW-I Shri R.K. Jain, Dy. GEOS, Shimla and he has been cross-examined by the Defence representatives. MW-II Shri M.P. Malia, Vigilance officer has been examined as MW-II. Shri B. V. Shenoi, Manager, Bansankri Branch, Bangalore has been examined as MW-III and Shri Naresh Pathak, Clerk has been examined as MW-IV. All the three witness have been cross-examined by the Defence representative so the workman applicant has cross-examined the witness of the management. It transpires from the perusal of the record that opportunity for defence has also been given to the workman applicant.

It was submitted from the side of the workman applicant that the inquiry report is empty formality behind the curtain of the principles of natural justice. This report shows that the management has a conspiracy against the workman applicant. The Inquiry Officer did not know about the ABC of the domestic inquiry. The management booked this Inquiry Officer for holding workman guilty by hook or by crook. He conducted inquiry in his own way as per undertaking with the Union leaders and as defence they were not raising any objections and simply working as per the direction from the management as such it has been alleged that the Union leaders also colluded with the management. From the perusal of the inquiry proceedings it transpires that every charge was explained to the charge sheeted employee and he understood the charges. It has been further submitted by the workman applicant that the record and the documents were handed over to Shri J. P. Sharma instead of the charge sheeted employee but the

Union leader never showed the documents to the charge sheeted employee and only handed over after the final order of the disciplinary authority. The inquiry report is not as per the principles of natural justice. The Inquiry Officer simply mentioned the proceedings part and did not make any analysis of the evidence as per manual of instruction and bipartite settlement. It shows that the inquiry Officer did not use his mind for justice intentionally.

It was further submitted by the workman applicant that the Inquiry Officer intentionally overlooked the facts though instructions for investigation were given by the Chief Vigilance Officer, HQ. Office, Manipal and the charge sheet is signed by the Assistant General Manager, which is completely illegal and it shows that the foot of the Vigilance Officer was in the Shoes of the Inquiry Officer. The Vigilance Officer was concerned with First Information Report (FIR), which was lodged. He was not concerned with the inquiry proceedings. In case Criminal proceedings are not concluded within one year the management has got right to initiate departmental inquiry. In the instant case Criminal proceedings have not been concluded within one year so the management initiated a domestic inquiry. Criminal proceedings and domestic inquiry can be initiated simultaneously. The only bar is that the domestic inquiry should be initiated after one year of lodging of the First Information Report (FIR). He has admitted that charge sheet has been submitted in the Court but the trial has not been concluded. In the circumstances the department/management is free to conduct disciplinary inquiry regarding temporary embezzlement and preparation of false pay-in-slips.

It was submitted from the side of the management that all the allegations of the workman applicant are false. He did not level any allegation against the Union leaders and did not object that the documents have not been provided to him. He cannot take a new plea in the Court for the first time. The management has examined four witnesses. All the witnesses cannot be said to be prejudiced against the workman applicant. The witnesses belong to different places, as such it cannot be said that there was animosity between the four witnesses and the workman applicant. The disciplinary authority and appellate authority have passed speaking orders on the report of the Inquiry Officer and proper punishment has been awarded to the workman applicant. I have perused the inquiry records. It is amply proved by the inquiry proceedings that he has deliberately embezzled the amount mentioned in the charge sheet. In view of this fact Vigilance was informed and First Information Report (FIR) was lodged against the workman applicant and charge sheet has been submitted in the Court. As such domestic inquiry is quite valid, principles of natural justice have been followed. All the allegations referred to in the claim statement have not been raised during the course of inquiry. All the witnesses have been cross-examined and on the evidence of the witnesses the Inquiry

Officer has based his findings. I have gone through his findings also. His findings are based on evidence and it cannot be said that this is a case of no evidence. Criminal proceedings are pending in the Court and trial has not been concluded. Evidence Act is not strictly applicable in domestic inquiries as has been laid down by the Hon'ble Supreme Court in a catena of cases. Domestic inquiry can be held even on hearsay evidence. In this case there is direct evidence in the proceedings of the inquiry. Principles of natural justice have been followed in the inquiry proceedings and the workman applicant has been given ample opportunity to adduce evidence in his defence as such the inquiry is quite fair. It is not liable to be set aside.

The reference is replied thus.

The action of AGM, Zonal Office, Syndicate Bank, New Delhi in dismissing from service Shri Jagat Singh, Clerk, Syndicate Bank, Employee No. 100412, R. K. Puram, Sector V Branch w.e.f., 19-03-1996 is justified and proper. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly. Costs easy.

Dated: 15-3-2005

R. N. RAI, Presiding Officer

नई दिल्ली, 21 मार्च, 2005

का.आ. 1439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. आंध्रा सीमेंट्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 182/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-03-2005 को प्राप्त हुआ था।

[सं. एल-29025/17/2005-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 21st March, 2005

S.O. 1439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 182/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation management of M/s Andhra Cements Ltd. and their workman, which was received by the Central Government on 21-3-2005.

[No. L-29025/17/2005-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc. LL.B., Presiding Officer

Dated the 27th day of December, 2004

Industrial Dispute L.C.I.D. No. 182/2003

Between :

Sri Y. Nagaraju,
C/o B. Suguna,
H.No. 33-18-13, Chalsani Street,
Suryaraopet,
Vijayawada-2.

..... Petitioner

AND

1. The Managing Director,
Andhra Cements Limited,
6-3-903/B/1, Somajiguda,
Hyderabad-500 082.
2. The Vice President (Works),
Andhra Cements Limited,
Regd. Office and Factory,
Durga Cement Works,
Dachipalli-522414,
Guntur District

..... Respondents

APPEARANCES :

For the Petitioner : M/s. R. Yogender Singh,
V. Kiran Kumar &
K. Sunil Kishore Goud,
Advocates.

For the Respondent : M/s. K.V.R. Chowdary & G.
Sriram, Advocates.

AWARD

This is a case taken under Sec. 2A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are : that the Petitioner joined the Respondent organization on 27-8-2001 and worked for six months and was terminated on 15-4-2002 on flimsy grounds, the Petitioner submits that of he worked with the Associated Cement Companies Limited before joining the Respondent organization. The Petitioner retired from the company. The Associated Cement Companies Limited under voluntary retirement scheme. The Petitioner was working under contractor, M/s. Pacman. One Mr. P. D. Law who is Vice President of the first Respondent organization he was selected for the post of Manager at the second Respondent Office *vide* appointment

order dated 27-8-2001. The Petitioner was appointed on probationary basis, wherein for the experience of more than 20 years with the Associated Cement Companies Limited. That the Petitioner worked with a contractor a period of 4 months. While working with the contractor M/s. Pacman, the Petitioner left the Company and joined the Respondent organization on the advise of the present Vice President Mr. P.D. Law. That the Petitioner was being pressurized to resign from the organisation from day one of the appointment. That he was issued termination order on 8-4-2002 stating that the Petitioner is terminated from service w.e.f. 15-4-2002 and the same was received by the Petitioner on 17-4-2002. It is submitted that the Petitioner signed the order under protest. That he was terminated on flimsy grounds because he did not adhere to the request of the Respondent. That he is not having powers to operate bank accounts to make payments to third parties, or enter into agreements, he cannot represent the employer and he has no control or he has not been given Incharge of correspondence to make commitments on behalf of his employer, he cannot grant leave or hold enquiry of disciplinary proceedings or punish or appoint any staff. Hence, he prays to set aside the termination order dated 8-4-2002 and direct the Respondent to reinstate the Petitioner with all consequential benefits along with back wages.

3. A counter was filed on behalf of both the Respondents. It is stated that the petition is not maintainable either in law or on facts of the case. That the petition is not maintainable as the Petitioner was appointed and having been worked as Manager and Incharge of the maintenance activity of the Cement Mills Department and in the Packing Plant. All technical person in these Department worked under the Petitioner directly under his control. That the Petitioner worked as Manager and hence, the petition is not maintainable as per Sec. 2(s) of the Industrial Disputes Act, 1947 as he was not a workman. The Petitioner performed mainly managerial and administrative duties as the said Departments as all the employees working in the said Departments worked under his direct control and supervision. He also used to grant leaves to the persons working under his direct control and did not perform any manual, skilled, unskilled or clerical or technical jobs and only performed managerial and supervisory jobs. Without prejudice to the above he was appointed as 'Manager' by appointment letter dated 27-8-2001 on probation, on a monthly salary of Rs. 15000/- and other benefits. He joined the service on 3-9-2001. He was on probation as his services were not satisfactory. He was terminated. The other allegation that he was being pressurized is all false. Hence, the Petitioner is not entitled to any relief and the petition may be dismissed.

4. The petitioner examined himself as WWI and stated the facts as stated in the petition. He was cross examined. He deposed in the cross examination that he was

appointed as Manager to look after the maintenance of Packing Plant *vide* letter dated 27-8-2001. That Ex.M1 and M2 are the copies of office orders dated 7-9-2001 and 27-9-2001. In the cross examination he deposed that he did not perform the duties of the Manager. The witness further added that on behalf of the AGM he has signed the leave cards as sanctioning authority *i.e.* Ex. M3. He further added that he used to sign leave cards of the employees who worked under him as sanctioning authority on behalf of AGM (Mechanical) as he has to officiate Incharge of Mechanical Department in the absence of Mr. Gopi Kumar. AGM (Mechanical).

5. Sri S. Veerachamy, General Manager (Administration) deposed that the Petitioner was Incharge of the Maintenance activity of the Cement Mills Department and in the Packing Plant. All technical persons in this Department worked under the Petitioner's strict control. That the Petitioner did not perform any manual, skilled, unskilled or technical jobs and the same things were repeated which is mentioned in the counter.

6. In the cross examination he deposed that they have not issued any notice informing about the dissatisfaction of the probationary services of the Petitioner. The probation will be completed immediately after completion of 6 months. Even he was engaged on probation after completion of the stipulated period as per orders. The extension of probation is oral and not in writing.

7. It is argued by the Learned Counsel for the Petitioner that because of his efficiency he was taken into job and that principles of natural justice were followed and his probation was not even extended by a notice. Hence, it shall be deemed that his probation has been declared and once the probation has been declared, he cannot be asked to go away simply without assigning the reasons and conducting enquiry and the appointment order is silent about establishing managerial activities on the part of the Petitioner. The Hon'ble Supreme Court already held in AIR 1999 SC page 983 that "...even in the case of a probationer one must apply the principle of fairness in action". He therefore submits that as the Petitioner is a workman and no chargesheet was issued, no enquiry was conducted, his dismissal is wrong. Hence, he may be reinstated with back wages and all benefits.

8. The Respondent's counsel submits that all technical persons in the Departments worked under the Petitioner's direct control. The Document showing his job responsibilities shows that the Petitioner performed supervisory and managerial duties and admittedly drawing Rs. 15000/- as monthly salary and therefore as per Sec. 25F he is not a workman. The Petitioner used to grant leave as per his own admission and all the employees working in the said Department worked under his control and supervision. Hence, he did not perform any skilled, unskilled, clerical or technical jobs and only managerial and supervisory jobs and as such is not a workman under

the provisions of Industrial Disputes Act, 1947. Therefore the only course left to him is to approach some other forum and not this Hon'ble Court. He relied on 1999 LLR page 21 of Bombay High Court wherein it was held that, "designation is not material and what is important is the nature of work, the dominant purpose of employment, where the employee has power to direct or oversee the work of his subordinates". He therefore submits that he is not a workman and that maintenance supervisor, delegated supervisory functions and functions mainly of managerial nature, is not a workman in the definition of Industrial Disputes Act, 1947. He also relied on FLR 1990 page 62 of Karnataka High Court between C. Channaiah Vs. the Presiding Officer, Labour Court and others, where his Lordship held that, "a person working in the capacity of Manager—Or his duties are not in the nature of clerical—he should not be deemed to be a workman—Salary drawn by him is not the sole criteria to decide this question". He also relied on 2001 LLR page 260 wherein their Lordships held that, "appointment and termination of during probation period—The suitability of the probationer is to be seen by the employer—If services are not satisfactory—The employer can terminate the services as a reason thereof." He therefore submits that the Petitioner is not entitled to the relief as prayed for:

9. It may be noted that before going into the question whether the extension of probation is valid by oral order and whether the termination of the services without issuing a charge sheet, not conducting an enquiry is valid or not. Let us see whether the Petitioner is a workman. It may be seen that Ex. W1 filed by the workman shows that the Petitioner is nominated as one of the members of the Safety First Committee and Ex. W2 shows that the Petitioner was appointed as Manager, Packing Plant in Cement Plant and was Incharge of commissioning, operation and maintenance of packing plant and as Ex. M1 dated 7-9-2001, it says that Mr. Y. Nagaraju, would take charge of the maintenance activity of the Cement Mills Department and in the packing plant. He will be responsible for ensuring proper up-keep of all equipment in these departments as well as housekeeping and shall coordinate with Laboratory in matters of cement production. All technical persons in these departments shall report directly to him. Ex. M2 dated 27-9-2001 he was defined as Manager (Mech.), the whole charge of the operation and maintenance of Cement Mills Department and also charge of the maintenance of Packing House Department. He also officiate as incharge of Mechanical Department in the absence of Mr. K. Gopi Kumar, AGM (Mech.). Further, Ex. W3 which is given to him by the Associated Cements Company, Rs. 3000/-. Award was addressed to Assistant Mechanical Engineer (Packing House). As per appointment as Manager as seen from the appointment letter, Ex. M1 and Ex. M2 and in the cross examination he deposed that he signed on the leave card which is Ex. M3 as sanctioning authority of leave to Mr. G. Anjaneyulu that he also admitted that he used to

sign leave cards, who worked under him as sanctioning Authority that he had to officiate as incharge of Mechanical Department and MW1 deposed that all technical persons worked in the petitioners direct control, the petition worked as Manager. His initial appointment itself was on a monthly salary of Rs. 15,000/-. In the cross examination nothing was put to him stating that he was not a Manager but a workman. So his evidence goes unchallenged that he was a workman in the managerial capacity and not as workman. Therefore I hold that the petitioner is not a workman under Sec. 2(s) of the Industrial Disputes Act, 1947. Therefore, his remedy relies elsewhere and this Court has no jurisdiction under the Industrial Disputes Act, 1947 to entertain his petition. Hence, I refrain to express my views on other questions like whether his probation could have been extended orally or whether his termination without issuing a charge sheet and conducting an enquiry is valid or not. In the result an award is passed holding that the petitioner is not a workman as defined under Sec. 2(s) of the Industrial Disputes Act, 1947 and hence, this Court has no jurisdiction to entertain the petitioner and he is not entitled for any relief from this Court.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 27th day of December, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
WW1 : Sri Y. Nagaraju	MW1 : Sri S. Veerachamy

Documents marked for the Petitioner

Ex. W1	: Copy of Circular dt. 24-7-2001
Ex. W2	: Copy of certificate certifying WW1 as incharge dt. 1-9-2001.
Ex. W3	: Copy of Lr. No. Man/S-15/Con/34 dt. 10-11-1987 reg. Rs. 3000/- award to petitioner.
Ex. W4	: Approval Signature of Mr. P.D. Law
Ex. W5	: Copy of Lr. Dt. 8-4-2002 from Mr. P.D. Law to WW1

Documents marked for the Respondent

Ex. M1	: Copy of Office Order of A.C. Ltd., dt. 7-9-2001.
Ex. M2	: Copy of order reg. Operation/Administration, reorganization by A.C. Ltd., dt. 27-9-2001
Ex. M3	: Leave Card of Sri G. Anjaneyulu for the year 2002.
Ex. M4	: Copy of Lr. No. ACL/HO/MD/ESTB/2001 dt. 27-8-2001.

नई दिल्ली, 21 मार्च, 2005

का.आ. 1440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. एस. सी. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल.सी.आई.डी. नं. 216/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-22013/1/2005-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 21st March, 2005

S.O. 1440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. No. 216/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of SCCL and their workman, which was received by the Central Government on 18-03-2005.

[No. L-22013/1/2005-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
HYDERABAD**

Present: SHRI E. ISMAIL, B.Sc., LL.B.,
Presiding Officer

Dated the 10th day of January, 2005

Industrial Dispute L.C.I.D. No. 216/2001

(Old I.D. No. 5/98 Transferred from Industrial Tribunal-cum-Labour Court, Warangal)

Between

Sri P. Seetha Ramulu.
S/o Late P. Veeraiah.
Qtr. No. 45-D.P.V. Colony,
Township, Manuguru,
P.O. Manuguru-507 125

.....Petitioner

AND

The General Manager,
Manuguru (Projects),
Singareni Collieries Co. Ltd.,
Manuguru Division,
Bhadrachalam Road-507 117

.....Respondent

APPEARANCES:

For the Petitioner : Sri V. Narsimha Goud, Advocate

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma
Devi, C. Vijaya Shekar Reddy &
G. Praveen, Advocates

AWARD

This is a case taken under Sec. 2 A(2) of the I.D. Act, 1947 by the Industrial Tribunal cum Labour Court, Warangal in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 bearing I.D. No. 5/98 and renumbered in this Court as L.C.I.D. No. 216/2000.

2. The brief facts as mentioned in the petition are : That the Petitioner is a general mazdoor, he was assisting the Stores Clerk in Shed No. 1 belonging to the Respondent Company at Open Cast Mine on transfer from May, 1995. That delinquent submits that on 29-8-95 while he was carrying out the orders of the clerk concerned, i.e., Mr. R.C.S. Reddy in Shed No. 1, the Petitioner found several empty boxes which are said to contain injectors in them in some racks and as he felt that piling of such empty boxes inside the shed is unnecessary, he requested Mr. D. John, another general mazdoor in the presence of the above said clerk Mr. R.C.S. Reddy to throw away the said empty boxes. When Mr. John was putting the said empty boxes in a bit carton, the clerk Mr. R.C.S. Reddy advised Mr. John not to throw away the waster material without showing the empty boxes to him. On 29-8-95 only the above said clerk received some stock to be stored in Shed No. 1. The said clerk asked him to place them along with the old stock of 18 numbers. He tried to locate the said old stock of 18 numbers, he did not find the same and reported to the said clerk. Thereupon he also checked and could not find the said 18 numbers of old stock. In the course of his check he further found that some more empty Injector boxes were thrown on the ground.

3. That the Petitioner received a charge sheet from the Divisional Engineer, O.C. Stores, alleging that he had stolen the property described therein worth Rs. 5,38,000/- alleging that he had advised another general mazdoor Mr. D. John to throw away empty packing boxes without the knowledge of Incharg clerk Mr. R.C.S. Reddy, and on verification it was found that injectors and R-3 gear pump worth Rs. 5,38,000/- was missing and that for the said reason he was informed that he has fraudulently stolen the materials described in the charge sheet and tried to maneuver the situation by suppressing the facts and misleading the Management. It is submitted that the charge-

sheet is very vague and he pleaded in his explanation to the said charge sheet that imply he advised Mr. John to throw the empty boxes treating them as mere waste that too in the presence of the clerk. Hence, it may not be said that he has stolen the boxes. Much is written about the unfairness of the enquiry, which need not be gone into because this Court by an order dated 28-7-2004 held that the domestic enquiry is validly conducted. That the Stores Clerk R.C.S. Reddy, Executive Engineer Mr. K.N. Ramulu and his other associates who visited Shed No. 1 on 25-8-95 could have committed the theft because of their knowledge they visited Shed No. 1 and conducted inspection themselves by ordering the Petitioner to go to the extreme end of the godown which is a large one in dimensions and from where the applicant could not have observed as to what is taking place in the front portion of the godown. Further the Executive Engineer Mr. K. Ramulu, visited in an unusual manner on 25-8-95 with four strangers and the theft could have been done by those four strangers in connivance with Mr. K.N. Ramulu and this could have been the only normal and natural inference to be drawn from the facts of the case. That the applicant during the course of the enquiry has placed on unimpeachable circumstantial evidence by way of eye-witnesses and documentary evidence i.e., gate pass marked as exhibit No. 7 by the Enquiry Officer after due verification by him. Even the Respondent has not proceeded against R.C.S. Reddy and another clerk Mr. Rathaiiah who was attending the duties of clerk as R.C.S. Reddy was on leave. The mere fact that the Petitioner has not given any explanation to the charge sheet about the visit of Mr. K.N. Ramulu and others does not mean they are not guilty. It was the duty of the Respondent to have also asked the aforesaid Incharge clerk Mr. Rathaiiah as to why he failed to report the visit of four strangers along with Mr. K.N. Ramulu and as to why he did not carry out inspection on 25-8-95 to find out if any articles are missing. That there is no iota of cognizable evidence brought on record by the Respondents. That merely by surmises, suspicious and conjectures the Petitioner has been made the scape goat and therefore he may be reinstated with continuity of service etc.

4. A counter was filed stating that the Petitioner was transferred to work at Open Cast Stores, on 24-8-92 and since then he was working as general mazdoor assisting Stores clerk at Open Cast Stores in Shed No. 1. On 29-8-95 Mr. D. John another general mazdoor who has come to receipts section for handing over the material was advised by the Petitioner to throw away some empty packings, which were lying in the side were given in a big size boxes. Before throwing the empty boxes Mr. John showed them to Incharge clerk of the section Mr. R.C.S. Reddy who identified some small packings as empty injector packings. On questioning, the Petitioner informed Mr. R.C.S. Reddy, clerk that he only advised Mr. John to throw them out as he found them in the Shed No. 1 which are no use. In fact, the Petitioner advised Mr. John to throw the empty

injector packings outside without even informing the same to Incharge clerk of the section i.e. R.C.S. Reddy.

5. It is a fact that on 29-8-95, 12 numbers of injectors were received and the clerk advised the Petitioner to keep these new injectors by the side of 18 numbers injector boxes which were stocked earlier. This applicant informed the clerk that he did not find earlier stock in the racks. While the clerk checked the racks for the earlier stock the Petitioner was found throwing down some more empty injector packings from the racks without informing the clerk who was present there. Questioned by the clerk as to why he was throwing away the empty injector packings the applicant replied that he threw the empty injector packings as he found them in the tracks. That the Petitioner was issued with a charge sheet. That the Petitioner has stolen fraudulently the injectors and gear pumps worth approximately Rs. 5,38,000/-. Then much is written about the enquiry which need not be gone into as already the enquiry has been held to be validly conducted. The enquiry was adjourned for more than 15 times as requested by the Petitioner. He has fully participated in the enquiry along with his observer.

6. It is a fact the Executive Engineer and 4 outsiders visited the Shed no. 1 on 25-8-95 at about 3.00 PM when the Incharge clerk Mr. Rathaiiah was away from the shed but the Petitioner has failed to submit any evidence to prove that the four outsiders and the Executive Engineer only conducted theft. That he had doubt on the 4 outsiders and the Executive Engineer, he did not mention in his explanation to the charge sheet dated 18-9-95. It is a fact that there is only one entry to the OC Stores, at the entrance of the gate, Security Guard is posted and at it is his duty to check the vehicles and persons while entering and going out. Though the missing items stated in the chargesheet were not recorded from the applicant but due to the negligent act i.e., allowing private cars into the premises and allowing to go out without security check from the stores, the security guard was dismissed from service after finding guilty of the charges levelled against him. The visit of Mr. K.N. Ramulu along with 4 outsiders on 25-8-95 not unusual. Had the applicant not cooperated the or assisted the visitors to Shed No. 1 on 25-8-95 the missing of articles could have not been taken place. Enquiries were conducted against R.C.S. Reddy and relieving clerk Mr. G. Rathaiiah. Mr. G. Rathaiiah was awarded punishment and was reverted back from Gr. I clerk to Gr. II clerk and Mr. R.C.S. Reddy was exonerated and both were shifted from OC Stores. Hence, the Petitioner is not entitled to any relief.

7. It is argued by the Learned Counsel for the Petitioner that the Petitioner joined as general mazdoor and on that particular day it was alleged that he tried to throw the empty boxes by asking Mr. John and he must have fraudulently stolen the above mentioned material. He submits that this Hon'ble Court by an order in IA No. 42/2003 on 24-7-2003 asked the Respondent to produce charge

sheet, enquiry report and final order issued in respect of Mr. G. Rathaiah and Mr. K.N. Ramulu but they have not filed the final order of Mr. K.N. Ramulu. But they have filed about Mr. G. Rathaiah. He submits that a charge sheet was issued to Mr. G. Rathaiah and the office order is also filed. That taking a lenient view after his enquiry he was reverted from Gr. I to Gr. II clerk with immediate effect. When such a lenient view is taken on him and it is also seen that they have not chosen to file the final orders against Mr. K.N. Ramulu, Executive Engineer under suspension. It is also chargesheeted for allowing four strangers and allowed them to go away without check and the poor fellow the security guard was dismissed and how can it be said that it is the Petitioner who has stolen the items. There is no evidence to show that the Petitioner has in any way stolen the injectors and merely because he tried to throw the empty boxes cannot be said that he is guilty. In fact what happened to the Executive Engineer Mr. K.N. Ramulu has not known. Actually he must have committed theft by sending the items along with four strangers. He therefore submits that the Petitioner may be reinstated with back wages.

8. The Learned Counsel for the Respondent argued that it came in the enquiry that Mr. P. Seetharamulu had told the Sub-Inspector that he gave six injectors to the outsiders. That he did not cross examine him. But during his examination he told that his statement in the Police Station is due to fear of beating. Further in the examination during the enquiry that he has admitted that on 25-8-95 when Mr. K.N. Ramulu, Executive Engineer has come to Shed No. 1 along with 4 outsiders who were the other persons present there to which he categorically admitted that except him no other persons were there. Then he was asked why did he open the grill when the concerned clerk is not present. He answered that the clerk was not there and he was advised to open the lock. So he submits that even if those strangers are involved itself is a connivance. He says that he opened the lock by picking the keys on the advise of the Executive Engineer. He therefore submits that he has got in connivance with those strangers even according to his statement. Therefore no mercy need be shown to him and he deserves the punishment of dismissal.

9. It may be seen that this Court by an order dated 24-7-2003 in IA No. 42/2003 directed the Respondent to produce the chargesheet, explanation and also the punishment awarded to Mr. K.N. Ramulu, Executive Engineer, but unfortunately, they have not chosen to file the final orders passed against Mr. K.N. Ramulu, Executive Engineer. Of course, the chargesheet and his explanation is filed herewith. So it is very clear that the Petitioner was present when the four persons and the Executive Engineer came. Mr. G. Rathaiah was not present. It may be seen that Mr. G. Rathaiah who after returning back to the Shed found three to four unconnected persons. He did not questioned them as to why they have entered the Shed and not returned to the Managing Director, Technical. Yet he was only

reverted from clerk Gr. I. It may be seen that there is evidence that the general mazdoor allowed the Executive Engineer and the four persons. Of course, confessions before Police Officers is not admissible but he has stated that he gave only six injectors. But apparently his conduct in throwing the empty boxes through Mr. John, throws a great suspicion on him. No doubt, the Hon'ble High Court of A.P. in 1999(6) ALD page 596 held that, "that the Petitioner who is a Senior Assistant has facilitated a candidate appearing in examination in the replacement of his original answer scripts with fresh answer scripts after getting code numbers duly affixed thereon—Board of enquiry finding the Petitioner guilty without basing on any evidence but only on a surmise that the Petitioner who will be able to find out the code number, of the candidate should have made it possible for the candidate to substitute his answer scripts. Held, such finding is illegal. But here in this case it is not only on circumstances. It is admitted by the Petitioner himself that he alone was present along with Executive Engineer and the four strangers. His contention that he was asked to go in to a corner and does not stand to reason. If that be so he should have become suspicious and his second conduct in getting the empty boxes thrown away through Mr. John and also reporting the missing of the injectors to Mr. Rathaiah goes to show that he definitely has a hand and that the same were removed with his knowledge. But the entire blame cannot be thrown on him because after all though technically if anyone gives an illegal order however high an officer may be, it should not be complied but what do you expect a general mazdoor when an Executive Engineer orders him to see the same. No doubt in the counter it is given that the security guard has been dismissed and Mr. Rathaiah was awarded for his negligence in duty and not reporting about the strangers. the only punishment from Gr. I clerk to Gr. II clerk. What happened to the Executive Engineer Mr. K.N. Ramulu is not known. This Petitioner is also dismissed but in the above circumstances the Petitioner is entitled for some relief. Though not the relief of reinstatement he shall be paid while upholding the dismissal order dated 31-1-1998. I hold that he shall be paid 15 days salary (as per his last drawn wage) for each completed year of service within 30 days after publication of this award failing which he will be entitled for the same with 6% p.a. Simple Interest after 30 days of publication of this award.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 10th day of January, 2005.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner:

NIL

Witnesses examined for the Respondent:

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 21 मार्च, 2005

का.आ. 1441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस. एस. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या एल.सी.आई.डी. नं. 137/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-03-2005 को प्राप्त हुआ था।

[सं. एल-22013/1/2005-आई आर (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 21st March, 2005

S.O. 1441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. No. 137/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of SCCL and their workman, which was received by the Central Government on 18-03-2005.

[No. L-22013/1/2005-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
HYDERABAD**

PRESENT: Shri E. Ismail, B.Sc. LL.B., Presiding Officer

Dated the 29th day of December, 2004

INDUSTRIAL DISPUTE L.C.I.D. NO. 137/2003**BETWEEN:**

Sri K. Odelu.
S/o Posham.
R/o 21-52/46-19,
Gandhi Nagar,
Mandamarri,
Adilabad District.

.....Petitioner

AND

The General Manager,
Sigareni Collieries Co. Ltd.,
Mandamarri Area,
Mandamarri,
Adilabad District

.....Respondent

APPEARANCES:

For the Petitioner : Sri P. Nageswar Rao & Murali Krishna, Advocates

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi, C. Vijaya Shekar Reddy & B.V.L. Vani, Advocates

AWARD

This is a case taken under Sec. 2 A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporaiton of India and two others and notices were issued to the parties concerned.

2. The brief facts as mentioned in the petition are : That the Petitioner was appointed as coal filler on 14-10-1986 and working at KK 1 incline. He was issued with chargesheet dated 24-1-2000 for his habitual absence, 25.25 of Standing Orders of the Respondent company. "Habitual late attendance or habitual absence from duty without sufficient cause." That the Petitioner was sick and suffering from ill-health and intimated his sickness to the Respondent and submitted all the medical certificates, in spite of which the case of the Petitioner was not considered and he was removed from service. Much has been said about the enquiry but this Court by an order dated 27-9-2004 stated that the domestic enquiry conducted is valid. That he submitted that the Petitioner may be reinstated into service with back wages, full attendant benefits. That actually it is averred in the petition that he met with an accident and his left shoulder fractured due to which he was advised for rest for 3 months, which was made known to the Respondent. The punishment of dismissal is disproportionate. Hence, he may be reinstated into service.

3. A counter was filed stating that the Petitioner was appointed on 14-10-86 as coal filler. On 24-1-2000 he was served with a chargesheet. He admitted those charges. He did not cross examine the Management witness. He did not produce any evidence in the enquiry. Hence, he was rightly dismissed from service. Hence, he is not entitled for any relief.

4. The domestic enquiry conducted is declared as valid by this Court vide order dated 27-9-2004. Hence, arguments under Sec. 11A were heard by both the counsels.

5. It is argued by the Learned Counsel for the Petitioner that he has filed medical certificates. That he could not attend due to his ill-health and due to fractures. Hence, the punishment is disproportionate to his fault. Hence, his case may be considered sympathetically and he may be reinstated.

6. It is argued by the Learned Counsel for the Respondent that Hence, he deserves no sympathy. The dismissal order dated 4-7-2001 may be upheld.

7. It may be seen that the Petitioner's conduct is far from satisfactory even after the issuance of charge sheet strictly speaking he deserves no sympathy. Without giving him another chance he was dismissed. Yet, as the quality of mercy is not strained I give him one more chance with certain strict conditions. An award is passed directing the Respondent to reinstate the Petitioner as coal filler within 30 days after publication of this award on the starting pay of the coal filler as on that day. His past services from 14-10-86 to 16-3-2001 shall be counted for purpose of terminal benefits only. His services shall be regularized as coal filler only if he puts in minimum musters for three consecutive years.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 29th day of December, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 21 मार्च, 2005

का.आ. 1442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. एस. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या एल.सी.आई.डी. नं. 138/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-2005 को प्राप्त हुआ था।

[सं. एल-22013/1/2005-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 21st March, 2005

S. O. 1442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. L.C.I.D. No. 138/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of SCCL and their workman, which was received by the Central Government on 18-3-2005.

[No. L-22013/1/2005-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ATHYDERABAD

PRESENT : Shri E. Ismail, B.Sc., LL.B., Presiding Officer

Dated the 29th day of December, 2004

INDUSTRIAL DISPUTE L.C.I.D. NO. 138/2003

BETWEEN:

Sri Golla Manikyam,
H. No. 27-18, C.S.P. Road,
Angadi Bazar,
Post & Mandal : Mandamarri,
Adilabad District.

....Petitioner

AND

The General Manager,
Singareni Collieries Co. Ltd.,
Mandamarri,
Adilabad District

....Respondent

APPEARANCES:

For the Petitioner : M/s. P. Nageswar Rao & R. Murali Krishna, Advocates

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi, C. Vijaya Shekar Reddy & B.V.L. Vani, Advocates

AWARD

This is a case taken under Sec. 2 A(2) of the I.D. Act. 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and notices were issued to the parties concerned.

2. The brief facts as mentioned in the petition are : That the Petitioner was appointed as badli worker in the year 1985 and worked at R.K. New Tech SRP(P) area incline. He was issued with charge sheet for his habitual absence. 25.25 of Standing Orders of the Respondent company. "Habitual late attendance or habitual absence from duty without sufficient cause". That the Petitioner was sick and suffering from ill-health and intimated his sickness to the Respondent and submitted all the medical certificates, in spite of which the case of the Petitioner was not considered and he was removed from service on 9-10-2001. Much has been said about the enquiry but this Court by a detailed order dated 27-9-2004 held that the domestic enquiry conducted is valid. He submitted that the Petitioner may be reinstated into service with back wages, full attendant benefits. That actually it is averred in the petition that the Petitioner met with an accident and he got injuries

to left hand and also Jaundice, which was made known to the Respondent. The punishment of dismissal is disproportionate to the misconduct. Hence, he may be reinstated into service.

3. A counter was filed stating that the Petitioner was appointed as Badli filler on 16-5-94. He was issued with a charge sheet for habitual absence during 1999 on 1-3-2000. An enquiry was conducted on 28-11-2000. He has produced the certificate said to have been issued by Medical Superintendent, Area Hospital, Ramagundam stating that he was made unfit on 25-7-99 and he was made fit on 31-3-2000. In fact, the charge is that he was absent without permission during the period from January, 1999 to June, 1999. Even afterwards he did not work regularly. He worked only for 11 days during the year 2000 and did not work even a single day in the year 2001 upto 9-10-2001 from which day he was dismissed from service. Hence, he is not entitled for any relief.

4. The domestic enquiry conducted is declared as valid by this Court vide order dated 27-9-2004. Hence, arguments under Sec. 11A were heard by both the counsels.

5. It is argued by the Learned Counsel for the Petitioner that he has filed medical certificates. That he could not attend due to his ill-health and due to injuries. Hence, the punishment is disproportionate to his fault. Hence, his case may be considered sympathetically and he may be reinstated.

6. It is argued by the Learned Counsel for the Respondent that even if it is seen that this medical certificates are for 1999 what happened to this man after he was given a charge sheet on 1-3-2000 he did not try to improve his work and he has put in 11 days during the year 2000 and not even a single day in the year 2001. He did not improve himself. Hence he deserves no sympathy. The dismissal order dated 9-10-2001 may be upheld.

7. It may be seen that the Petitioner's conduct is far from satisfactory even after the issuance of charge sheet, strictly speaking he deserves no sympathy. He was appointed in 1995 as per Respondent's records and in 1999 he started absenting himself. It may be seen that the enquiry was completed on 28-11-2000 and he did not work even when sword of domicile was hanging over his head. He worked only for 11 days during 2000 and did not work even a single day in the year 2001 upto 9-10-2001, without giving him another chance he was dismissed. As the quality of mercy is not strained. I give him one more chance with certain strict conditions. An award is passed directing the Respondent to reinstate the Petitioner as a fresh badli worker 30 days after publication of this award on the starting pay of the badli filler as on that day. His past services shall be counted for any purpose. His services shall not be regularized as badli filler only if he puts in minimum musters for three consecutive years.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 29th day of December, 2005.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner:	Witnesses examined for the Respondent:
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 21 मार्च, 2005

का.आ. 1443. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-1 के पंचाट (संदर्भ संख्या 8/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2005 को प्राप्त हुआ था।

[सं. एल-11012/47/2002-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 21st March, 2005

S.O. 1443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8/2003) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Air India and their workman, which was received by the Central Government on 21-03-2005.

[No. L-11012/47/2002-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEWDELHI

Presiding Officer : Shri S. S. Bal

I. D. No. 8/2003

In the matter of dispute between :

Shri B. P. Sharma, S/o Shri D. N. Sharma.
Ex-Commercial Asstt. III.
X-166, Tagore Gali,
Ram Nagar,
Gandhi Nagar,
Delhi-31.

.....Workman

VERSUS

Maha Prabandhak,
Air India,
I.G.I. Airport,
Terminal-I,
New Delhi.

.....Management

APPEARANCES:

None for the workman.

Shri G. S. Khalsa for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012/47/2002-IR(C-1) dated 24-12-2002 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of Air India IGI Airport Terminal-I, New Delhi in dismissing the services of Shri B. P. Sharma, Ex-commercial asstt. III w.e.f. 5-3-2001 is justified? If not, to what relief is the workman entitled?”

2. The workman was proceeded exparte in this case on 25-8-2004. Workman has not filed any statement of claim no evidence has been adduced on behalf of the workman. Mr. G.S. Khalsa A/R for the management states that the workman has moved a writ petition in the High Court No. 1782/04 which is pending and there is no stay from the Hon'ble High Court regarding these proceedings. Hence the workman is not taking interest. In view of the facts that the workman has been proceeded exparte, he has not produced/preferred to file any claim or adduced any evidence it would be appropriate to pass a No Dispute Award in this matter and as such No Dispute Award is passed for want of any material on record and file be consigned to record room.

Dated: 15-3-2005S.

S. BAL, Presiding Officer.

नई दिल्ली, 21 मार्च, 2005

का.आ. 1444.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 126/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2005 को प्राप्त हुआ था।

[सं. एल-20012/13/1998-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 21st March, 2005

S.O. 1444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 126/2001) of the Central Government Industrial Tribunal Labour

Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of BCCL and their workman. which was received by the Central Government on 21-03-2005.

[No. L-20012/13/1998-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
DHANBAD**

PRESENT: Shri B. Biswas, Presiding Officer.

In the matter of Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 126/2001

PARTIES:

Employer in relation to the management of Bastacola Area of M/s BCCL and their workman.

APPEARANCES:

On behalf of the workman : Ld. Advocate Mr. B. N. Singh

On behalf of the employer : Ld. Advocate Mr. R. N. Ganguly

State : Jharkhand

Industry : Coal

Dated Dhanbad, the 8th day of March, 2005

AWARD

The Govt. of India Ministry of labour. in exercise of powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/13/98-C-I dated, the 27th April, 2001.

SCHEDULE

“Whether the demand of Janta Shramik Sangh from the management of Bastacola Area of M/s BCCL of regularisation of Sri Sheo Kumar Yadav. General Mazdoor on the post of Loading Clerk is proper correct and justified? If so, to what relief is the concerned workman entitled from what date?”

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows :

The sponsoring union submitted that since 1991 the concerned workman who was designated as general mazdoor is discharging his duties as loading clerk continuously by Order of the management. In support of this claim sponsoring Union relied on different letters issued in the name of the concerned workman by the management. They alleged that inspite of rendering continuous service as loading clerk management ignored to regularise him as loading clerk illegally and arbitrarily. As a result he raised

an Industrial Dispute before ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

Accordingly, the sponsoring union submitted prayer to pass award directing the management to regularise the concerned workman as loading clerk with effect from 26-6-93 with other consequential relief.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement.

They submitted that the concerned workman is working as H.E.M.M. Mazdoor in category I from the very beginning of his appointment and is still continuing as such. They disclosed that he is being paid proper wages as per N.C.W.A. according to his work and designation and for which he is not entitled to anything more. In the circumstances they submitted prayer to pass award rejecting the claim of the concerned workman.

4. POINTS TO BE DECIDED

"Whether the demand of Janta Shramik Sangh from the management of Bastacola Area of M/s BCCL for regularisation of Sri Sheo Kumar Yadav, General Mazdoor on the post of Loading Clerk is proper correct and justified? If so, to what relief is the concerned workman entitled from what date".

5. FINDING WITH REASONS

It transpires from the record that the sponsoring union with a view to substantiate their claim examined the concerned workman as W.W.1 management also in support of their claim examined one witness as M.W.1.

W.W.1, i.e. the concerned workman during his evidence disclosed that since 1993 he is working as loading clerk at Golokdih Open Cast Project. In support of his claim he relied on certain letters issued by the management which in course of his evidence were marked as Exhibit W.1 to W.4. This witness further disclosed that he submitted representation to the management for his regularisation as loading clerk in grade II but the management ignored the claim.

On the contrary M.W.1 during his evidence disclosed that the concerned workman is a permanent heavy earth cutting mazdoor in category I and in that capacity he is still working. This witness categorically denied the fact that he continuously is discharging his duties as loading clerk. Identifying the documents which the concerned workman relied on this witness disclosed that neither senior under manager nor the Project Officer/Agent holds any power to issue any order allowing any workman of category I to discharge his duties as loading clerk without approval of the Head Quarter. He disclosed further that the post of clerk is a cadre post and vacancy to such post of clerk is filled up only as per selection/interview. He further

submitted that neither the concerned workman submitted any application for the post of clerk nor he was selected by the management for the same. This witness also categorically disclosed that he never saw the concerned workman to discharge his duties as loading clerk. On the contrary since 13 months last he is remaining absent from duty continuously.

Now considering the evidence of both sides it transpires clearly that the concerned workman got his appointment under the management as general mazdoor in category I. In spite of his designation as category I mazdoor it is his contention that since 1993 he is discharging his duties as loading clerk and not as general mazdoor. In support of his claim we relied on letters marked as Exhibit W-1 to W-4 issued by the management.

It transpires from the letters dated 26-6-93 (Exhibit-W/1) and 13-4-95 (Exhibit W/4) management issued instructions to all loading staff at C.K. West and East siding. Copies of the said letters were forwarded to all loading staff of C.K. West East siding. It transpires that though in the said two letters management against name of each staff disclosed his designation, they did not disclose designation against the name of the concerned workman. However, considering letters dated 28-8-84 (Exhibit W/2) and 20/25-11-1994, contrary picture is coming where the designation of the concerned workman was shown as loading Clerks. Considering these four letters as referred to above I however find no dispute that the concerned workman during the period in question was posted at C.K. West/East siding and he was involved in the matter of loading of coal in the wagons.

Relying on these four letters issued by the management as referred to above it is the contention of the sponsoring union that management engaged the concerned workman to discharge his duties as loading clerk and in that capacity he discharged his duties. Continuously till 1996. They submitted that in the post of loading clerk as his service was continuous he is very much eligible to get his regularisation as loading clerk under proper grade.

On the contrary contention of the management appears to be quite different. It is their contention that concerned workman has got his appointment as category I mazdoor. As per provisions laid down in NCWA a category I mazdoor is debarred from claiming his regularisation in clerical grade which is a cadre post. They submitted that there is clear process in the matter of selection/appointment of clerk in clerical cadre. Relying on the evidence of MW1 Ld. Advocate for the management emphatically submitted that neither under manager nor agent is at all complete to designate a workman as clerk who by designation is a category-I mazdoor without approval of the HQ and also without fulfilling the conditions for selection/appointment of a clerk. He further submitted that by virtue of the qualification which was claimed by the concerned workman

he did not accrue his right for placing his claim to regularise him in clerical grade. Ld. Advocate further submitted that there are several workmen with some qualifications are working as category-I mazdoor and that was admitted by the concerned workman during his evidence. Accordingly if the claim of the concerned workman is considered the other workmen having similar qualification who are working as category I mazdoor will not only be deprived of but it will expose a gross injustice to them.

The evidence of M.W. I has clearly exposed that there are many workmen working as category I mazdoor having academic qualification like that of him. Considering the evidence of both sides it has been exposed clearly that the concerned workman was not selected to work as loading clerk maintaining due process as per official procedure based on N.C.W.A. Excepting the two letters marked as Exhibit W/2 and W/3 in course of hearing neither the sponsoring union nor the concerned workman could be able to produce a single scrap of paper to show that competent authority by issuing valid order allowed the concerned workman to work as loading clerk. Under Manager or Agent are not competent authority to issue any such order. Record shows that they did not also issue any order to that effect. The concerned workman only started agitating for his regularisation just relying on two letters issued by the local management. I have failed to understand how without specific order for appointment of the concerned workman as loading clerk in clerical grade from Category I mazdoor, such letters had been issued designating him as loading clerk knowing fully well that on administrative point of view they are absolutely incompetent to issue any such letter changing designation of a workman.

In course of hearing the representative of the sponsoring union referring two decisions reported in 1961(i) LLG 649 and AIR 1963 S.C. 703 submitted that the management can not avoid their responsibility to regularise the concerned workman in clerical grade though he was permanent workman of Category I mazdoor. I have carefully considered both the the decisions of the Hon'ble Apex Court. I hold that the decisions referred to above have been passed by the Hon'ble Court on different aspect and the same are not applicable in connection with this case. In the instant case the concerned workman got his appointment as category I mazdoor. No letter of appointment was issued by the competent authority authorising the concerned workman to work as loading clerk in clerical grade. As the name of the concerned workman is appearing in two letters (Exhibit W/2 and W/3) showing his designation as loading clerk under signature of the officers who were not competent enough to alter such designation does not justify his entitlement to be regularised in that post in absence of specific appointment letter. Even the sponsoring union in course of hearing have failed to establish that change of designation of the concerned

workman as loading clerk was done by the officer issued the letters being delegated by the employer, i.e., the competent authority.

Actually excepting these two letters as mentioned above the sponsoring union have failed to produce a single scrap of paper to show that though the concerned workman was appointed as Category I mazdoor was selected by the competent authority following due process to work as loading clerk in clerical grade.

Accordingly after careful consideration of all the facts and circumstances I hold that the claim of the concerned workman for his regularisation as loading clerk in clerical grade from category I mazdoor finds no substantial footing and for which there is no scope to accede to his claim. In the result the following award is rendered :—

“That the demand of Janta Shramik Sangh from the management of Bastacola Area of M/s BCCL for regularisation of Sri Sheo Kumar Yadav, General Mazdoor in the post of loading clerk is not proper correct and justified. Accordingly, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 21 मार्च, 2005

का.आ. 1445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-II के पंचाट (संदर्भ संख्या 82/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2005 को प्राप्त हुआ था।

[सं. एल-20012/35/2000-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 21st March. 2005

S.O. 1445.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of BCCL and their workman, which was received by the Central Government on 21-03-2005.

[No. L-20012/35/2000-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 82/2000

PARTIES: Employer in relation to the management of Sijua Area of M/s BCCL and their workman.

APPEARANCES:

On behalf of the workman : Ld. Advocate Mr. B. B. Pandey

On behalf of the employer : Ld. Advocate Mr. H. Nath

State : Jharkhand Industry : Coal

Dated, Dhanbad the 7th day of March, 2005

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/35/2000 (C.I) dated, the 24th July, 2000.

SCHEDULE

“Whether the action of the management of Mudidih Colliery of M/s BCCL in rejecting the claim of Sri Raju Bhuia, dependant son of Late Lakho Bhuini for employment as a dependent is justified? If not, to what relief the said dependant is entitled?”

The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows :

2. The sponsoring union submitted that Smt. Lakho Bhuini who was an employee at Mudidih Colliery under the management died in harness on 6-3-92. They submitted that after death of said Lakho Bhuini, her son Raju Bhuia submitted an application before the management for his employment as dependant son as per provision of law. Subsequently the H.Q. recommended his employment vide letter No. 434-38 of 4-1-1995. They disclosed that after the said recommendation as per direction of the management attended for his medical examination and during the said examination medical officers assessed his age as 16 years as on 9-3-1995 and thereafter by letter No. 1716/3112 of 5-5-1995, management informed their inability to provide employment to him as he was found minor. They submitted that there is provision under the Apprentices Act to provide employment as apprentice to a person who has completed 14 years of age but the management did not provide him employment as apprentice through he was recommended for employment by the H.Q. However, after attaining the age of 18 years he approached the management for his employment but his such prayer was not considered by the management taking the plea that he was found minor previously. They alleged that the management illegally,

arbitrarily and violating the principle of natural justice refused to provide any employment to him and for which he raised an Industrial Dispute before ALC(C) which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass award directing the management to provide employment to Raju Bhuia immediately with all monetary benefit which he was entitled to get during the intervening period.

3. Management on the contrary after filling written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement.

They submitted that the Lakho Bhuini was an employee of Mudidih Colliery under Sijua Area. She died on 6-3-1992 while she was in service. After her death Raju Bhuia claiming himself to be the son of Late Lakho Bhuini submitted application for his employment on compassionate ground as per provision of N.C.W.A.

They submitted that the competent authority accorded approval for providing employment to him subject to medical examination and verification of his genuinness. Accordingly he was referred to Medical Board where his age was assessed as 16 years as on 9-3-1995. Therefore, it proved that he was only 13 years old at the time of the death of his mother. As he was considered under age there was no scope for providing employment to him by them.

They admitted that after attaining the age of 18 years he submitted another application on 5-5-97 requesting for his employment which was not considered in view of the facts that employment can not be kept reserved for years together.

Accordingly, they submitted prayer for pass award rejecting the claim of the sponsoring union to providing employment to Raju Bhuia S/o Late Lakho Bhuini.

3. POINTS TO BE DECIDED

“Whether the action of the management of Mudidih Colliery of M/s BCCL in rejecting the claim of Sri Raju Bhuia, dependant son of Late Lakho Bhuini for employment as a dependant is justified? If not, to what relief the said dependent is entitled?”

4. FINDING WITH REASONS

It transpires from the record that neither the sponsoring union nor the management adduced any evidence with a view to substantiate their claim and counter claim. In course of hearing Ld. Advocate who represented the sponsoring union submitted that there was no need to adduce evidence on their part as management in their written statement-cum-rejoinder accepted the facts which they relief in their written statement.

In view of the facts and circumstances let me consider if the claim of the sponsoring union stands on cogent footing or not.

Considering the facts disclosed in the pleadings of both sides there is no dispute to hold that Lakho Bhuini was an employee of Mudidih Colliery under Sijua Area. It is admitted fact that said Lakho Bhuini died on 6-3-92 while she was in service. Management further admitted that after the death of Lakho Bhuini her son Raju Bhuia submitted an application for his employment being dependant son on compassionate ground as per provision of N.C.W.A. They further admitted that the said application was processed and the competent authority agreed to provide employment to him subject to this medical fitness and verification of his credentials. Accordingly, he was sent to Medical Board for his medical examination. During that medical examination age of Raju Bhuia was assessed as 16 years as on 9-3-95. Disclosing this fact management submitted that as he was under age, they were not in a position to provide him employment as per the provision of N.C.W.A. On this point the representative of the sponsoring union submitted that claim for employment of Raju Bhuia was on compassionate ground as he was absolutely dependant on his mother as per provision laid down in N.C.W.A. They submitted that as per Apprenticeship Act there was scope to provide employment as apprentice to a person who has completed 14 years of age. They submitted that applying the said provision management had the scope to provide employment to him as apprentice particularly when competent authority approved his employment on compassionate ground. In course of hearing Ld. Advocate for the management failed to give any satisfactory explanation in this regard.

It is to be taken into consideration that competent authority reviewing the petition submitted by Raju Bhuia decided to provide him employment on compassionate ground as he was dependant on his mother for his subsistence.

It is fact that he was declared under age by the Medical Board. As per report of the Medical Board which has been admitted by both sides he was 16 years old as on 9-3-1995. As per submission of the representative of the sponsoring union there was ample scope on the part of the management to employ him as apprentice for his subsistence they ignored to do so and refused to give him any employment.

However, it has been admitted by the management that immediately after attaining majority said Raju Bhuia again submitted application for consideration of his employment but that too was rejected by them taking the ground that employment can not be kept reserved for years together.

It is admitted fact that age of Raju Bhuia by the Medical Board was assessed as 16 years as on 9-3-1995.

As per Apprenticeship Act there was scope to provide employment to him as apprentice at that age but management ignored the same. It is clear that immediately after attaining majority he submitted application for his employment but that too was rejected taking the plea that employment can not be kept reserved for years together. It is seen that the gap between assessment of the age of Raju Bhuia by the Medical Board and his attaining majority was for two years. Therefore, the plea taken by the management that employment can not be kept reserved for years together is not correct. It is seen that intention of the competent authority was to provide employment to Raju Bhuia on compassionate ground. There is sufficient reason to believe that the competent authority after considering all aspects meticulously came to the decision to provide him employment and accordingly order was issued. There is no dispute to hold that he was declared under age to get his direct employment in the colliery. When management on compassionate ground decided to provide employment to him I think there was no serious impediment to provide him employment as apprentice but that aspects was not considered at all. Again the management rejected his claim after attaining his majority taking the plea which I have already mentioned above. As there was no scope for getting direct employment in the colliery at the age of 16 years he was deprived. Again he was deprived to get him employment on attaining his majority. Provision made for employment under clause 9:4:3 of N.C.W.A. to the dependant of the deceased employee should not be viewed placing the same on common platform for employment. It is not intentional delay but for under age he was forced to wait for two years to attain his majority. There is also no scope to say that management had to wait for years together to provide employment to the petitioner.

Accordingly after careful consideration of all the facts and circumstances I hold that management when on compassionate ground once decided to provide employment to the deceased son of Lakho Bhuini it is not expected that they should ignore their own decision by taking different plea on different occasion.

In the result the following award is rendered :

"That the action of the management of Mudidih Colliery of M/s BCCL in rejecting the claim of Sri Raju Bhuia, dependant son of Late Lakho Bhuini for employment as a dependant was not justified?"

Management accordingly is directed to provide employment of Raju Bhuia after proper verification that he is son of Late Lakho Bhuini within three months from the date of publication of this award in the Gazette of India."

B. BISWAS, Presiding Officer

नई दिल्ली, 21 मार्च, 2005

AWARD

का.आ. 1446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद II के पंचाट (संदर्भ संख्या 127/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2005 को प्राप्त हुआ था।

[सं. एल-20012/242/97-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 21st March, 2005

S.O. 1446.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 127/98) of the Central Government Industrial Tribunal/Labour Court, Dhanbad II as shown in the Annexure in the Industrial Dispute between the Management of CCL and their workman, which was received by the Central Government on 21-3-2005.

[No. L-20012/242/97-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2
AT DHANBAD**

PRESENT

Shri B. Biswas,
Presiding Officer

In the matter of an Industrial dispute under Section
10(1)(d) of the I.D. Act., 1947.

REFERENCE No. 127/98

PARTIES Employers in relation to the management of
Regional Store, Kathara of M/s. CCL and
their workman.

APPEARANCES:

On behalf of the workman : Ld. Advocate Mr. D.
Mukherjee

On behalf of the management : Ld. Advocate Mr. D. K.
Vema

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 23rd February 2005

The Government of India. Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/242/97-I.R. (Coal-I) dated, the 22nd April 1996.

SCHEDULE

“Whether the demand of the Union from the management of Regional Store (KTA), Kathara, CCL for restoration of date of birth of Sri B.C. Samal as 11-12-44 instead of 9-7-34 and allowing the workman to join his duties is justified? If so, to what relief is the workman entitled?”

2. The case of the concerned workman according to the written statement submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was posted at Regional Store, Kathara under the management. They submitted that at the time of his appointment management illegally and arbitrarily recorded his date of birth as 9-7-1934. Accordingly, he immediately raised his protest against that illegal and arbitrary recording of date of birth and requested the management to record his actual date of birth as 11-12-1944 as per school leaving certificate and Matriculation Certificate. It is the contention of the sponsoring union that said date of birth, i.e., 9-7-1934 of the concerned workman was recorded in the official registers of the management as per Medical Officer's report though the said report was never supplied to him. Moreover, the said report was against the provision of the medical jurisprudence and against the provision of law.

They submitted that on the basis of representation and the certificate produced by the concerned workman the management directed the concerned authority to correct his date of birth and to record his actual date of birth as 11-12-1944. Thereafter, in the year 1987 management issued service excerpt to the concerned workman wherein also his date of birth was recorded as 11-12-1944. As the date of birth was correctly recorded in the service excerpt he referred back the same by putting his signature therein without raising any objection in relation to date of birth recorded therein. Apart from the service excerpt management also issued seniority list of Store Keepers at Kathara Zone wherein also his date of birth was recorded as 11-12-1944.

They submitted that on the wrong advice of the Advocate the concerned workman challenged his illegal and arbitrary superannuation with effect from 9-7-1944 on the basis of wrong recording of his date of birth before the Hon'ble High Court, Patna at Ranchi Bench. They submitted that as per decision of the Hon'ble Supreme Court and also as per settled law of the land a Writ Court

has got no jurisdiction to adjudicate the complicated question of fact and an issue concerning industrial dispute. As such, after the dismissal of the writ petition the concerned workman through his Union raised an Industrial Dispute challenging the illegal and arbitrary superannuation of the concerned workman for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring Union accordingly submitted prayer to pass award directing the management to reinstate the concerned workman in service correcting his date of birth as 11-12-1944 instead of 9-7-1934 alongwith back wages and other consequential relief.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement and submitted on behalf of the concerned workman.

4. They submitted that the concerned workman was initially appointed as Category I mazdoor on 27-3-1961 under M/s N.C.W.C. which was subsequently renamed as Central Coal Fields Ltd. after nationalisation of coal mines with effect from 1-5-1973.

They submitted that at the time of his appointment his particulars were entered in his service sheet and he declared his date of birth as 9-7-1934. He was medically examined by the Medical Officer as per the recruitment rules of M/s NCDC and the medical examination report also indicated his date of birth as 9-7-1934. The concerned workman as a mark of acceptance of his date of birth/age assessed by the Medical Officer on the basis of Medical examination put his signature as well as thumb impression in the said certificate. He also put his Left Thumb Impression on the body of the service sheet accepting the correctness of the particulars including the date of birth recorded therein. The Manager of the colliery also authenticated the document by putting his signature on it.

They submitted that the concerned workman at the time of his appointment as failed to produce any document in support of his age he accepted his date of birth as per report of the Medical Officer which confirmed his declaration of date of birth as 9-7-1934.

They submitted that the concerned workman claimed to have studied and appeared in the High School Certificate Examination in August '70. In the above certificate he declared his date of birth as 11-12-1944. He stated that he obtained the school leaving certificate on 18-7-1962 wherein his date of birth was recorded as 11-12-1944. In the matriculation Certificate his date of birth also was recorded as 11-12-1944 on the basis of the school leaving certificate. He produced the aforesaid certificate and requested the management to put him in clerical cadre from his existing time rated category. The management without going into

genuinity and correctness of the aforesaid certificate put him in clerical cadre and he was attached to Store department at the time of his retirement.

The concerned workman managed to get his of birth recorded as 11-12-1944 on some of the documents of the management on the strength of the said matriculation Certificate with the hope of getting extension of 10 years of service which he obtained after commencement of service. However, the matter was detected by the Task Force of the Headquarters and they asked the local management to correct the date of birth of the concerned workman in those documents which were recorded on the basis of Matriculation Certificate obtained by him after rendering 10 years of service. Accordingly, notice was issued to the concerned workman and after obtaining due approval of the competent authority. It was decided that his date of birth as 9-7-1934 recorded in the service sheet would continue to decide his time of superannuation and he would not get advantage of the age recorded relying on matriculation Certificate which he obtained after ten years of his service. They disclosed that in the Coal Industry a workman superannuates at the age of 60 years. As the date of birth of the concerned workman was recorded as 9-7-1934 at the time of his employment his due date for superannuation was 9-7-1994 and for which a letter dated 10-12-1993 was issued to him followed by notice of superannuation dated 12/14-1-1994 with effect from 9-7-1994.

Against the decision of the management the concerned workman preferred a writ petition before the Hon'ble High Court Patna at Ranchi Bench challenging the validity of the Order of superannuating him from his service with effect from 9-7-1994. The said writ petition was numbered as CWJC 1689 of 1994(R). The Hon'ble Court after hearing the said petition dismissed the same on merit. Thereafter the concerned workman preferred letters Patent Appeal being numbered as MRPA 73 of 1995 (R) but that appeal too was dismissed by the Hon'ble Division Bench of Patna High Court, Ranchi Bench by order of 18-4-1995. Against that order the concerned workman preferred S.L.P. before the Hon'ble Supreme Court which also was dismissed.

They submitted that after dismissal of the original writ petition on merit, the letters Patent Appeal and S.L.P. have been dismissed also by the Hon'ble Supreme Court. Accordingly there was no justification on the part of the Central Govt. to make the present reference for adjudication on the self same issue. They submitted that it is also beyond jurisdiction of the Tribunal to proceed with the hearing of this case on the face of the judgements passed by the Hon'ble High Courts and Hon'ble Apex Court and for which they submitted their prayer to pass award rejecting the claim of the concerned workman.

4. Points to be Decided

“Whether the demand of the Union from the management of Regional Store (KTA), Kathara, CCL for restoration of date of birth of Sri B.C. Samal, as 11-12-1944 instead of 09-07-34 and allowing the workman to join his duties is justified? If so, to what relief is the workman entitled?”

5. Finding with Reasons

It transpires from the record that management in support of their claim examined one witness as M.W.I. The sponsoring Union also with a view to substantiate their claim examined the concerned workman as W.W.I.

Considering the evidence of both sides and also considering materials on record there is no dispute to hold that the concerned workman got his employment as category I mazdoor on 27-03-61 under M/s. N.C.D.C. which was subsequently taken over by the present management, i.e., the Central Coalfields Ltd. after nationalisation of Coal Mines w.e.f. 01-05-1973.

W.W.I. i.e., the concerned workman during his evidence disclosed that at the time of his employment management recorded his date of birth as 09-07-1934 and for which he raised his objection instantly. He submitted that at that time of his employment he actually disclosed his date of birth as 11-12-1944 but management instead of recording his said date of birth recorded his date of birth as 09-07-1934. He further submitted that at the time of his entry in the service to proof his date of birth he produced his school leaving certificate to the management wherein his date of birth was recorded as 11-12-44. He further disclosed that in the year 1965 management corrected his date of birth as 11-12-44 on the basis of certificate produced by him. In spite of claiming so during his cross-examination he admitted to the effect that he did not produce any certificate of age at the time of his entry in the service. The school leaving certificate which the concerned workman relied on (Marked as Exhibit 10) in support of his age was issued by the school authority on 18-07-1962. Concerned workman during his cross examination also admitted this fact. Therefore, there is sufficient reason to believe that it was not at all possible for the concerned workman to show school leaving certificate to the management at the time of his entry in service on 27-03-61 with a view to record his date of birth as 11-12-44 when the certificate was issued by the school authority on 18-7-62. Therefore onus was on the concerned workman to establish that though he disclosed his date of birth as 11-12-44 management recorded it as 09-07-34. He also denied that fact about his medical examination for assessment of his age at the time of his entry in the service.

On the contrary it is the specific claim of the management that the concerned workman at the time of his

employment disclosed his date of birth as 09-07-34. They further disclosed that inspite of mentioning that date of birth as 09-07-1934. They further disclosed that inspite of mentioning that date of birth his medical test was arranged for assessment of his age and according to medical examination report his same date of birth, i.e., 09-07-34 was recorded not only in the service book but also relevant registers of the Company. Even the concerned workman accepting correctness of the entries including his date of birth not only signed but also put his LTI in the service book which was duly endorsed by the officer of the management.

Concerned workman in course of his evidence denied his LTI appearing in the service book wherein his date of birth was recorded as 09-07-1934 but did not consider necessary to establish this fact through Finger Print Expert. He also did not consider necessary to produce that authentic document which he produced at the time of his employment showing date of birth as 11-12-44. He disclosed that he raised his strong protest instantly when his date of birth was recorded as 09-07-1934 instead of 11-12-1944 but also has failed to produce any copy of his representation which he submitted to the management raising his protest about wrong recording of his date of birth. Though he had sufficient scope to raise Industrial dispute over this issue did not consider necessary to do so. Therefore, it is clear that the concerned workman has failed to substantiate his claim that management wrongly recorded his date of birth in the service book and also in other relevant papers at the time of his entry in the service.

It is seen that his promotion in clerical grade as Assistant Store Keeper is a subsequent event. It is seen from his evidence that his date of birth was rectified by the management as 11-12-1944 in the year 1965 on the basis of his school leaving certificate. He also relied on the Matriculation Examination Certificate to show that his date of birth was 11-12-1944 and not 09-07-34. The office order dated 6/14-04-65 Exhibit 1 shows that in view of his application management corrected his name on the basis of his school leaving certificate. Therefore, it is clear that in the year 1965 his date of birth relying on school leaving certificate was not corrected. Vide office order dt. 12-12-68 Exhibit W. 2 as per recommendation of D.P.C. the concerned workman was appointed to the post of Store Issuer on condition that he will have to obtain matriculation or equivalent certificate within one year from the date of his appointment failing which he will be reverted to the post of Category I Mazdoor. Again vide office order dated 27/29-03-71 issued by the management it transpires that he was allowed to perform his duties as Store Issuer as he passed School Final Examination in August 70. It has been disclosed by the management that after getting promotion as Store Clerk second service book was opened for the concerned workman. They admitted that relying on the school leaving certificate as well as School Final Certificate

date of birth of the concerned workman in the second service book was recorded as 11-12-1944. It is also clear from other relevant papers of the management viz., Office Order dated 03-06-87 (Exhibit W/5) Service excerpt (Exhibit W/6) date of birth of the concerned workman in the official record was changed and recorded as 11-12-1944. MW1 during his evidence disclosed that at the time of employment one service book as opened for the concerned workman wherein his date of birth was recorded as 09-07-1934. After getting his promotion as Store Issuing Clerk second Service Book of the concerned workman was opened wherein his date of birth was recorded as 11-12-1944. MW1 during his evidence disclosed that during inspection of Kathara Colliery in the year 1992 by the inspection team they detected existence of two service book of the concerned workman wherein his two separate date of birth were found to be recorded and accordingly direction was given by that team to the management for removal of the said anomaly. Thereafter said anomaly was removed and by letter issued to the concerned workman by the Head Quarter it was informed that his date of birth should be considered as 09-07-34 instead of 11-12-1944.

In the letter dated 27-04-1994 (Marked as Exhibit-14) issued by the Personnel Manager Kathara Colliery it has been mentioned that "As regards the opening of 2nd Service sheet of Sri Samal, in this connection, I have to intimate you that it was the practice of the management of Kathara Colliery to open a fresh service sheet after regularisation/promotion of employees from daily rated to monthly rated and accordingly his case was also dealt and his date of appointment indicated in service sheet as 12-12-68 instead of 27-03-61. The date of promotion, i.e., 12-12-68 was wrongly been taken into account as the date of appointment in the 2nd service sheet due to oversight of the sectional concerned."

Again in the same letter it has been further stated "Sri B.C. Samal was initially appointed as Gardener Category-I in the year 1961, i.e., on 27-03-61 and his date of birth was recorded in the service examination as on 09-07-62."

Therefore considering the record it is evident that in the second service sheet date of appointment of the concerned workman was wrongly recorded. It is clear that date of appointment of the concerned workman as Category-I mazdoor was on 27-03-61 and after medical examination his date of birth was recorded as 09-03-34.

The claim of the concerned workman that his date of birth was 11-12-44 came into existence in the year 1968 when he got promotion as Store Issuer relying on school leaving certificate. The J.B.C.C.I. Circular No. 76 has clearly pointed out under which circumstances date of birth of a workman can be rectified. It is seen that the concerned workman passed school final examination in the year 1970. Even he did not produce his school leaving certificate

wherein his date of birth was recorded at the time of his employment. Had that been so there was no occasion to record date of birth of the concerned workman as per his statement as well as relying on his medical examination report. Obviously management disbelieved that date of birth of the concerned workman recorded in the school leaving certificate and accordingly issued notice of superannuation to him for his superannuation from service w.e.f. 09-07-04.

Being aggrieved by the decision of the management the concerned workman preferred a Writ petition before the Hon'ble High Court, Patna at Ranchi Bench which was numbered by CWJC 1689 of 1994(R). Hon'ble Court after hearing both sides on merit dismissed the said Writ Petition (Exhibit M-1). Against that order of the Hon'ble High Court, Patna at Ranchi Bench which was registered as L.P.A. No. 73 of 1995 (R). The said appeal also was dismissed by the Hon'ble Court as there was no merit in the appeal preferred by the concerned workman (Marked as Exhibit M-2). Against that order of the Hon'ble High Court Patna the concerned workman preferred S.L.P. before Hon'ble Apex Court which also was dismissed (Marked as Exhibit M-3).

It is seen that the concerned workman over self same issue not only preferred written petition but also preferred appeal and thereafter preferred SLP before the Hon'ble Court. The claim of the concerned workman was rejected as he failed to substantiate the same. Over the Self same issue the sponsoring union on behalf of the concerned workman again raised industrial dispute which ended in reference to this case. The sponsoring union in course of hearing have failed to justify the claim of the concerned workman inspite of getting scope like that of their claim which they have failed to establish before the Hon'ble High Court Patna.

Apart from all the facts discussed above I hold that decisions of the Hon'ble High Courts and of the Hon'ble Apex Court are absolutely binding upon this Tribunal. When the Hon'ble Courts dismissed the appeal and S.L.P. preferred by the concerned workman over the self same issue I do not find any cogent ground that the concerned workman had any scope to re-agitate the issue on self same point by way of raising industrial dispute.

Accordingly, the concerned workman is not entitled to get any relief. In the result the following award is rendered :

"That the demand of the Union from the Management of Regional Stores (KTA) Kathara, CCL for restoration of date of birth of Sri B.C. Samal as 11-12-1944 instead of 09-07-34 and allowing the workman to join his duties with back wages and all consequential benefits are not justified and for which he is not entitled to get any relief."

B.BISWAS, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1447.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एंड जयपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या सी.जी.आई. टी-26/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-12012/120/2002-आई. आर. (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd March, 2005

S.O. 1447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. C.G.I.T-26/2003) of the Central Government Industrial Tribunal - cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 22-3-2005.

[No. L-12012/120/2002-IR (B-I)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL - CUM-LABOUR COURT, JAIPUR

Case No. CGIT-26/2003.

Reference No. L-12012/120/2002-IR (B-I)

Sh. Mukesh Teli,
S/o Sh. Bheru Lal Teli,
C/o General Secretary, Parmanu Vidhyut Karmchhari
Union (CITU), Phase-II P.O. Rawatbhata Via
Kota (Raj.) Applicant

Versus

1. The General Manager,
State Bank of Bikaner & Jaipur,
Head Office, Jaipur
2. The Assistant General Manager,
State Bank of Bikaner & Jaipur,
Branch Zonal Office, Udaipur
3. The Branch Manager,
State Bank of Bikaner & Jaipur,
Branch Krishi Upaj Mandi, Nimbaheda,
Distt-Chittorgarh. . . . Non-applicants

PRESENT:

Presiding Officer : Sh. R.C. Sharma.

For the applicant : Sh. Yogesh Sharma &
Sh. Praveen Saxena.

For the non-applicants : Sh. Rajendra Vaish.

Date of award : 24-2-2005

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of Sub-sections 1 & 2 (A) to Section 10 of the Industrial Disputes, Act, 1947 (hereinafter referred to as the 'Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

"Whether Shri Mukesh Teli S/o Shri Bheru Lal Teli was a workman of the State Bank of Bikaner & Jaipur, Nimbaheda Branch, Chittorgarh from 21-5-1997 to 30-11-2000? If so, whether the act of management in terminating the services of disputant w.e.f. 30-11-2000 is justified? If not, what relief he is entitled?"

2. The workman in his statement of claim has pleaded that he was employed 21-5-97 as a 4th Class on daily wages in the Branch of State Bank of Bikaner & Jaipur at Nimbahera, Distt. Chittorgarh, who continuously worked up to 30-11-2000 and thus has completed over 240 days in a calendar year. But without complying with the requirements under Section 25-F of the Act, his service was terminated by an order on 30-11-2000. He has further pleaded that after his termination the new employee was recruited in his place in violation of Section 25-H of the Act. He has urged to declare his termination order as illegal and reinstate him in the service with its continuity and back-wages.

3. The non-applicants, in their written counter, have disputed the claim filed by the workman by stating that he was engaged on contractual basis for contingent work on payment of fixed pay and for a short fixed period. They have denied that he was ever employed as a 4th Class on daily wages basis and have further averred that the workman had not completed 240 days of actual service with the bank. They have also stated that the workman was a regular student from July, 1998 to June, 1999 and in this capacity he passed his secondary examination. Therefore, his statement that he continuously worked with the bank is falsified.

4. In the rejoinder, the workman has reiterated the facts as stated in the statement of claim.

5. On the pleadings of both the parties, the following points for determination were framed :—

- I. Whether the non-applicant management had appointed the workman on 31-5-1997 as class IV

16. On a scrutiny of Ex. M-1, the submission of the workman is fortified to this extent only that he was in the continuous service of the bank from 1-12-99 till the end of March, 2000. This document does not contain the further entries of the payment of wages. The workman to strengthen this fact that he was in the continuous employment up to 30-11-2000, has also placed his reliance upon the cheques Ex. W-1 to W-5. Ex. W-1 dated nil pertains to the month of September, 1999, Ex. W-2 bears the date as 16-10-1999, Ex. W-3 dated 30-1-2000 discloses that Rs. 440/- were paid to the workman. Thereafter by the cheque Ex. W-4 dated 30-5-2000, it appears that an amount worth Rs. 1040/- was paid to the workman and the last cheque Ex. W-5 dated 28-5-2000 reveals that the payment of Rs. 740/- was made to the workman. Thus, to reckon the period from April, 2000 to 30-11-2000 only two cheques Ex. W-4 and Ex. W-5 are relevant in this context.

17. MW-1, Sh. M.C. Baghmar in his cross-examination has stated that the workman was paid the wages @ Rs. 440 per month in the year 1999 and in the year 2000, he was paid @ Rs. 740 per month. In view of this submission, it appears that vide cheque Ex. W-5 dated 28-9-2000, a sum of Rs. 740 was paid to the workman towards his one month's wages and vide cheque Ex. W-4 dated 30-5-2000, the workman was paid an amount worth Rs. 1040, which is equal to the wages for one and a half months approximately. On this calculation, it follows that subsequent to the month of March, 2000 till November, 2000, the workman had worked for a span of two and a half months with the bank. thus, no documentary evidence is available on the record to show that the workman had also worked for the remaining five and a half months in the said period.

18. Now, I am faced with the pertinent question as to whether the plea of completion of 240 days of actual work by the workman is substantiated by the oral evidence on the record and whether the adverse inference can be drawn against the bank for the non-production of the relevant record?

19. The workman in his affidavit has categorically stated that he had worked from 21-5-97 to 30-11-2000 with the bank. This fact is further corroborated even by the management witness as MW-1, MC Baghmar, who in his cross-examination has clearly admitted that from May, 1997 to November, 2000, the payment of wages was made to the workman through the cheques. The relevant portion of his testimony is extracted as below:—“मई, 1997 से नवंबर, 2000 तक उसे पेमेंट चेक से किया गया है।” Further he has also admitted that monthly payment of wages was made to him.

20. This deposition of the witness strengthens the plea of workman that from April 2000 to November, 2000, he was paid the fixed amount of wages through the cheques. Thus, even on the basis of the management's oral evidence,

the plea of the workman is supported that he was continuously working with the bank.

21. The Ld. representative for the bank in support of his submission that the onus of proving the completion of 240 days of actual service lies upon the workman has referred to the decisions reported in 2002 SCC (L & S) 367 and 2004 (4) SCT 211.

22. In 2002 SCC (L & S) 367, the facts are that in drawing the conclusion that the workman had completed 240 days, the Tribunal relied upon his affidavit and found it sufficient to prove the workman's case. The Hon'ble Apex Court has held that when the claim of the workman was denied by the management, it was for the claimant to lead the evidence to show that he had in fact worked for 240 days in the calendar year and mere filing of an affidavit cannot be considered to be the sufficient evidence to arrive at the conclusion that he had worked for 240 days in a calendar year. No documentary evidence was placed on the record by the workman in this case.

23. In 2004 (4) SCT 211, neither the management nor the workman produced the evidence and the Tribunal concluded that the workman had not completed 240 days of work in a calendar year and disallowed his claim. The finding of the Tribunal was upheld by the Hon'ble Apex Court.

24. Obviously, the facts of both the referred to cases do not bear the resemblance with the case on hand, wherein both the parties have advanced the documentary as well as oral evidence on the record and the workman's stand that he had completed 240 days of work with the bank is even supported by the oral evidence of the management. Therefore, the Ld. representative for the non-applicants does not find any assistance from the referred to decisions.

25. Now, I turn to the next question whether the adverse inference can be drawn against the non-applicants for withholding certain material documents?

26. As stated earlier, the non-applicants vide order dated 28-7-2004 of this court were called upon to submit the cheques pertaining to the period from 20-5-1997 to 30-11-2000. Pursuant to this direction, the bank has placed on record Ex. M-1, bankers cheque payment register containing the entries of payment of wages through the cheques from June, 1997 to March, 2000. it is contended on behalf of the non-applicants that the workman had intermittently worked with the bank and all the related entries of payment of wages have been entered into Ex. M-1. but as stated above, the workman has also brought on the record the cheques Ex. W-4 dated 30-5-2000 and W-5 dated 28-9-2000 whereby the payments of wages were respectively made to him for the month of May and September, 2000 respectively. But Ex. M-1 only contains the entries of payment of wages up to the month of March, 2000. Both these cheques disclose that subsequent to the

month of March, 2000, the workman was also paid the wages for performing the jobs with the bank. Both these cheques could not be denied on behalf of the bank, which lead to infer that the workman was continuing under the employment of the bank even after the month of March, 2000 and it clearly establishes that the bank has deliberately withheld the bankers cheque payment register from the month of March, 2000 to onwards. No reason could be assigned on behalf of the non-applicants for the non-production of this record, whereas it has been specifically shown on behalf of the workman that he was working with the bank subsequent to the month of March, 2000 till November, 2000. Thus, on this count also, the case of the workman is fortified.

27. The Ld. representative for the non-applicants has contended that on facts no adverse inference can be drawn against the management and has drawn my attention towards the decision cited in 2004(4)SCT 482. In this decision, the Hon'ble Apex Court in conformity with its earlier decision in 2004 (4) SCT 211 has held that the Industrial Court could not have based an order of reinstatement solely on the basis of an adverse inference. The relevant passage is quoted as below:—

"A court of law even in a case where provisions of the Indian Evidence Act apply, may presume or may not presume that if a party despite possession of the best evidence had not produced the same, it would have gone against his contentions. The matter, however, would be different where despite direction by a court the evidence is withheld. Presumption as to adverse inference for non-production of evidence is always optional and one of the factors which is required to be taken into consideration in the background of facts involved in the lis. The presumption, thus, is not obligatory because notwithstanding the intentional non-production, other circumstances may exist upon which such intentional non-production may be found to be justifiable on some reasonable grounds. In the instant case, the Industrial Tribunal did not draw any adverse inference against the appellant. It was within its jurisdiction to do so particularly having regard to the nature of the evidence adduced by the respondent."

28. Thus, the facts of the referred to decision are dissimilar to the instant controversy wherein the workman has been able to produce the documentary evidence which shows that even after the month of March, 2000, he was under the employment of bank and the bank despite the direction issued to it, has not placed the complete record before the Court. Therefore, the referred to decision is of no avail to the non-applicants.

29. It was contended on behalf of the non-applicants that the workman was engaged on the contractual basis

for a specified period and on fixed wages. But no such contract/ agreement has been brought on the record on behalf of the non-applicants to substantiate their stand. The non-applicants have even not disclosed the specified span for which the workman was engaged on contractual basis. Therefore, the stand adopted by them is vague and indefinite and becomes untrustworthy in the absence of any cogent evidence.

30. Now, I advert to the question whether the workman was employed as a full-time employee or a part-time employee?

31. The Ld. representative for the workman has submitted that the workman was performing the duties similar to that of a 4th Class, whereas on behalf of the non-applicants it has been contended that it is the admitted case of the workman that he was a regular student and as such he was unable to perform the duties of a 4th Class. Their case is that he was carrying out the job of cleaning and dusting in the branch on hourly basis.

32. The workman in his testimony has admitted that in the year 1999, he had appeared in the secondary examination as a regular student. His further admission is that prior to the secondary studies, he was also a regular student who used to attend his studies from 12.00 hours to 17.00 hours and in the morning at 6.00 hours after having the keys of the office from the 4th Class, he used to discharge the job of cleaning and dusting in the office and thereafter closing the office he used to hand over the key to the peon. He has also stated at his own that during his studies in the 7th and 8th classes, he used to attend the school from 7.00 hours to 12.00 hours and from 12.00 hours he used to work in the bank. Thus, it clearly appears from his testimony that he was not a full-time employee, rather he was performing the job for about two hours a day only and in this manner his position appears to be that of a part-time employee only. On these facts, his submission that he was functioning as a 4th Class cannot be accepted and he can be termed as a part-time employee. It is a fairly settled law that even a part-time is a working as defined under Section 2-S of the Act.

33. To conclude, on the basis of the materials available on the record, the workman has succeeded in establishing that he had completed over 240 days of actual work with the bank in a calendar year preceding to his termination and that prior to his termination, one month's notice or pay in lieu thereof and retrenchment compensation were not paid to him. As such, his termination tantamounts to the retrenchment and he is entitled for the protection under Section 25-F of the Act. Accordingly, both these points are decided in favour of the workman and against the non-applicants.

Point No. III

34. The Id. representative for the workman contends that after the termination of the workman, the new employee named as Sohani Bai has been appointed in his place.

35. The workman in his claim statement has not named any person who was appointed after his termination, nay he has mentioned such a name in his affidavit. It is only in his cross-examination that he has deposed that one Sohani Bai has been appointed in his place. But no documentary proof thereof could be placed on the record in support of his testimony and his statement appears to be an afterthought deposition which cannot be relied upon. He, therefore, has failed to discharge the burden of proving that fresh hands were recruited after his termination in violation of Section 25-H of the Act. This point, therefore, is answered in favour of the non-applicants and against the workman.

RELIEF

36. On account of the decision of Point No. I and II in favour of the workman, he is entitled for his reinstatement. The workman has also pleaded that he is unemployed since his termination which stands un rebutted. Therefore, he is also entitled to get the back-wages

37. In the result, the reference is answered in the affirmative in favour of the workman and against the non-applicants and it is held that the disputant had completed 240 days of actual service under the employment of bank in the preceding calendar year from 1-12-99 to 30-11-2000, to his termination and that he is a workman (part-time employee) of the non-applicant bank. It is further held that his termination order dated 30-11-2000 is illegal and unjustified and his claim is allowed. He is entitled to be reinstated in the service with its continuity and with 50 per cent back-wages. An award is passed in these terms accordingly.

38. Let a copy of the award be forwarded to the Central Government for publication under Rule 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1448.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-II के पंचाट (संदर्भ संख्या 27/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-17014/1/2005-आई आर (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd March, 2005

S.O. 1448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.27 of the 1991) of the Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of L. I. C. of India and their workman, which was received by the Central Government on 22-3-2005.

[No. L-17014/1/2005-IR (B-1)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT -II, RAJENDRA BHAWAN,
GROUND FLOOR, RAJENDRA PLACE
NEW DELHI**

Presiding Officer: R. N. Rai. Complaint No. 118/97
Reference No. 27 of 1991

In the Matter of :—

Sh. Balaji Dhondiba Shinde,
C/o Insurance Employees Association,
Gulistan Building : 2nd Floor,
Maharshi Dadhichi Marg,
Bombay-400 001

Versus

Sr. Divisional Manager,
L. I. C of India,
Nanded Divisional Office,
Vazirabad, Nanded-431 601

AWARD

The complainant has filed complaint under Section 33-A of the I. D. Act.

In the complaint it has been stated that the complainant begs to state that the complainant was engaged on 24-2-90 as part-time sweeper for two hours from 8.00 a.m. to do sweeping job in Degloor Branch by the respondent/ second party.

The complainant was given wages of Rs. 300/- initially and was raised to Rs. 345/- for the period 24-2-90 to 30-4-91. The Sweeping time was extended from two Hours to four hours with effect from 1-5-91. Since then he was paid Rs. 517.35 initially and was raised to Rs.867/- no deduction was effected from his salary.

The complainant had applied for the post and alongwith the said application had furnished his SLC

certificate in proof of age and qualification. The complainant had passed IX stanard.

That the complainant had been signing the muster roll meant for all other employees in the branch. The complainant never remained absent from the duties. The complainant had not enjoyed casual leave during his service in the said branch. That the complainant besides the job of sweeping was performing the duties of peons such as carrying cash whenever the peon used to remain on leave/absent for that he used to be paid daily rate of Rs. 15/- against voucher drawn in his name.

That as a sweeper the office used to assign him duties like water-filling dusting tables/chairs of all staff members. Therefore, on most of occasions the complainant had to remain in the office beyond fixed hours. That the complainant had been assigned the job of sweeping Guest House situated in the same building.

That the work of the complainant used to be supervised by the Assistant Administrative Officer and the Branch Manager of the Branch. That the complainant all of a sudden on 3-2-94 was orally told that due to his over qualification his services were being terminated and the same day he was served with the termination letter.

That the complainant accordingly put in total and uninterrupted service of 3 year 11 Mts. 3 days from 24-2-90 to 3-2-94 without giving any notice and/or pay in lieu thereof and without any enquiry and reasonable opportunity though the said complainant had been giving very satisfactory work to the office and doing his duties assigned to him very diligently without giving any cause for complainant to any orle in the office.

That the complainant was working in a clear vacancy of a part time sweeper and his appointment was done by the Branch Manager with full knowledge about the character educational qualification and all other relevant particulars and therefore it was regular in all sense and in every respect.

That the complainant is covered by the present reference being adjudicated by the Hon'ble Tribunal and therefore he is a concerned workman so far as this reference is concerned and by abruptly terminating his services without any cause and reason during the pendency of the reference the Sr. Divisional Manager Nanded Division of the corporation has committed gross violation of the provisions of the I.D. Act, 1947.

That the efforts on the part of his association to reinstate the complainant had been proved ineffectual and therefore, the complainant aggrieved by the stubbornness of the management at all level has preferred this complainant before your honour.

That it is prayed this Hon'ble Tribunal may please seize with this matter and award the relief to the complainant in terms of reinstatement with full back-wages and all attendant benefits and such other benefits the Hon'ble Tribunal deems fit and necessary in the facts and circumstances of the case. The Hon'ble Tribunal may also award the costs to the complainant for the inconvenience and sufferings caused to him because of wrong and illegal action by the Sr. Divisional Manager, Nanded Division of the Corporation.

The management has filed written statement. In the written statement, it has been stated that the present application is misconceived and untenable. No case whatsoever has been made out for warranting any order to be made in respect of the applicant under the provisions of section 33-A of the Industrial Disputes Act. There has been no alteration of the conditions of service applicable to the workman. There has been no discharge or punishment for any misconduct nor is it case of wrongful and illegal termination as alleged in the application. The application is liable to be dismissed summarily.

It is submitted that as per the showing of the complainant he was engaged as temporary part-time sweeper for two hours from 8.00 a.m. A temporary part-time worker has no right to continue as a part time worker in perpetuity by the very nature of his engagement. He can be asked to discontinue from his service as and when his temporary part time services are not required by the Corporation.

It may be mentioned that as the complainant happened to be engaged as temporary part time sweeper no deductions were effected from his salary. It is further denied that the complainant was asked to perform the duties other than the job of sweeper as has been alleged by the complainant.

It is denied that the complainant was asked to perform other duties besides the job of sweeper as has been alleged in the application. The work of the complainant as a sweeper was however being supervised by the supervisory staff.

It is submitted that the complainant was only a temporary part time sweeper and his services were no longer required and the same were dispensed with vide letter dated 1st February 1994. The said action of the managment cannot be said to be illegal, unjust, unfair in any manner.

It is submitted that the complainant was only a temporary part time sweeper and his services were no longer required and the same were dispensed with vide letter dated 1st February, 1994. No notice or any pay in lieu thereof, no enquiry in the facts and circumstance of the complainant's temporary part time engagement. Rest of the para is wrong and denied. It is further denied that the complainant put in uninterrupted service of 3 years 11 months and 3 days, as

has been alleged by the complainant. The complainant be put to strict proof of the same.

The applicant's engagement was purely temporary part-time engagement and the complainant was fully aware about the nature and duration of his engagement. It is denied that the complainant's engagement was regular in any sense or in any respect as alleged by the complainant in this para.

It is wrong that there was any change in the service conditions of the complainant or the respondent/management committed any violation of the provisions of the Industrial Disputes Act during the pendency of the reference in as much as the complainant was only a temporary part time sweeper and his services were no longer required and the same were dispensed with vide letter dated 1st February, 1994. The said action of the management cannot be termed as illegal, unjust or in violation of the Industrial Disputes Act. There has been no discharge or punishment for any misconduct and there cannot be said to be any violation of the Industrial Disputes Act.

All India National Insurance Employees Federation has filed rejoinder. In rejoinder they have reiterated the facts of the statement of claim and have asserted that the claimant was regular employee of the management and his services have been arbitrarily terminated.

The management has denied most of the paras of the statement of claim and the federation has also denied most of the paras of the written statement.

Evidence of both parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the Union that the services of the claimant was terminated during the pendency of ID No. 27/1991 so he has filed a complaint under U/s 33 A of the ID Act. Section 33 A read as hereunder :

“Where an employer contravenes the provisions of Section 33 during the pendency of proceedings (before a conciliation officer, Board an Arbitrator, Labour Court, Tribunal or National Tribunal) any employee aggrieved by such contravention, may make a complaint in writing) in the prescribed manner”.

- (a) to such conciliation officer or Board, and the conciliation officer or Braod shall take such complaint into account in mediating in, and prompting the settlement of such industrial dispute; and
- (b) to such arbitrator, Labour Court, Tribunal or national Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal

or National Tribunal as the case may be shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly.

According to this provision which has been introduced by the amendment Act. 48 of 1950 the Court has to give award as if it were a dispute referred to or pending before the Court/Tribunal in accordance with the provisions of this Act and the award shall be submitted to the appropriate Government and the provisions of this act shall apply accordingly. It was submitted from the side of the management that the services of the workman applicant was terminated during the pendency of the aforesaid Id case of 1991. The Court has to give award and that cannot be contrary to the award already passed in the case referred to U/s 10 of the ID Act. In 33 A itself it has been mentioned that the Court shall adjudicate upon the complaint as it was dispute referred to or pending before it. So far as ID No. 27/91 is concerned, an award was given by the CGIT-I but the same has been set aside by the Hon'ble Delhi High Court in Writ Petition (C) No. 4346 of 2001 against the workman in the light of the scheme approved by the Hon'ble Supreme Court in Prabhawati's case. The reference in this case is to be replied as if the dispute has been referred to the Tribunal by the appropriate Government. So Section 33A by no stretch of imagination has any force like a penal provision and the award is given in the light of the original case referred to by the appropriate government.

It was argued from the side of management that the award passed in ID No. 27/91 has been set aside by the Hon'ble High Court. It is no longer in existence and the Hon'ble Supreme Court in State of Haryana Vs. Pyara Singh 1992(4) SCC 118 on 23rd October, 1992 the Supreme Court granted special leave and disposal of all the Civil appeals incorporating the essential features of the scheme prepared by the petitioner as a part of its order. The operative portion of the orders passed by the Supreme Court in Prabhavathy reads as follows :

The scheme contained in clauses (a) to (d) of paragraph 1, which is as hereunder is approved subject to postponement of the recruitment scheduled in November, 1992 by at least six weeks and the LIC will proceed to regularize the employees eligible under the Scheme.

- (a) All those temporary employees who have worked for 85 days in any two consecutive calendar years with the Life Insurance Corporation between 20th May, 1985 up till date and conform to the required eligibility criteria

employee, who worked continuously up to 30-11-2000 with the management?

II. Whether the service of the workman was terminated in violation of the provision under section 25-F of the Industrial Disputes Act?

III. Whether after the termination of the workman, the non-applicant management has recruited the fresh hands in violation of section 25-H of the Act and has not maintained the seniority list in violation of Rules 77 & 78 under the Act?

IV. Relief, if any?

6. In the evidence, the workman has examined himself as WW-I and non-applicants have examined Sh. M.C. Baghmar, the Branch Manager as MW-I. They were cross-examined by the respective opposite representative. Both the parties have also led the documentary evidence on the record.

7. I have heard both the parties and have scanned the record. The point-wise discussion follows as under :—

Point No. I & II

8. Since both these points involve the identical facts, they are being discussed together hereunder.

9. The Id. representative for the workman contends that the workman was engaged as a daily rated workman w.e.f. 21-5-97 to 30-11-2000 who carried out the instructions of the Branch Manager and the stand of the non-applicants in this regard is totally ambiguous and inconsistent. His submission is that the non-applicants have stated that the workman was engaged for a short period, but they have not explained as to from which period he was employed and they have also not filed the contract on the record, whereas there is a specific plea of the workman that he has worked under the bank from 21-5-97 to 30-11-2000. The Id. representative further contends that on the request of the workman, the documents were summoned by the Court from the possession of the non-applicants and in the preceding year, from 1-12-99 to 30-11-2000, the workman has completed 365 days of actual work. To strengthen his submission, the Id. representative submits that it is proved from the bankers cheque payment register that from 1-12-99 to April, 2000 the workman was continuously working with the bank and thereafter on the basis of the cheques Ex. W-1 to W-5, it is proved that he worked up to 30-11-2000 and the management witness has also admitted this fact. Thus, as per his contention, the workman was continuously working in the calendar year preceding to his termination.

10. Controverting the submission advanced on behalf of the workman, the Id. representative for the management contends that the burden lies upon the workman to prove that he has continuously worked for

more than 240 days in a calendar year with the bank and that he has admitted in his cross-examination that he was a regular student who used to attend his classes from 12.00 hours to 17.00 hours. Therefore, admittedly, he did not work for more than two hours in the office. The next contention of the Id. representative is that the workman was paid the fixed amount and the relevant facts in this regard have been admitted by the workman in his cross-examination. The Id. representative further adds that no appointment order was issued in his favour and he was not even a daily wager. The Id. representative has also placed his reliance upon the attendance register wherein the name of the workman has not been born out. The last submission made on behalf of the non-applicants in this context is that the workman has not come up with clean hands and has no right of employment under the bank. It is also contended that the work was of a temporary nature and not that of a permanent nature.

11. I have given my thoughtful consideration to the rival contentions and have gone through the judicial pronouncements referred to before me.

12. Now, the key question which emerges out for determination is whether the workman has completed 240 days of actual service under the employment of bank in a calendar year preceding to his termination?

13. The case put forth on behalf of the workman is that he was in continuous service from 21-5-97 to 30-11-2000 and the Id. representative for the workman has emphasized that in the calendar year preceding to his termination i.e. from 1-12-99 to 30-11-2000, the workman has completed over 240 days of work with the bank. Per contra, the non-applicants' stand is that the workman was intermittently working with the bank on the basis of the need of work and they have disputed the factum of completion of 240 days of continuous service under the employment of the bank.

14. On the request of the workman, vide order dated 28-7-2004 of this Court the bank was called upon to produce the cheques through which the payment of wages was made to the workman during the period 20-5-97 to 30-11-2000. Pursuant to this direction, the bank has placed on record the copies of the attendance register from the year 1997 till January, 2001 as well as the bankers cheque payment register w.e.f. 1997 to March, 2000. In support of his submission, the workman has placed on record five cheques which are Ex W-1 to W-5 respectively.

15. The Id. representative for the workman has submitted that on account of the bankers cheque payment register Ex. M-1, it is proved that the workman was continuously working from 1st December, 1999 to April, 2000 and thereafter the workman has produced the cheques which show that he was in the continuous service of the bank up to 30-11-2000.

for regular recruitment on the dates of their initial temporary appointment will be permitted to compete for the next regular recruitment after the regular recruitment for these posts currently scheduled for November 1992.

- (b) These candidates will be considered on their merits with all other candidates who may apply for such appointments including those from the open market.
- (c) These candidates will be given age relaxation for applying for regular recruitment provided that they were eligible on the date of their first temporary employment with the Life Insurance Corporation.
- (d) If these candidates are otherwise eligible, they can apply for regular recruitment in the normal course.

This regularization will in the circumstances, be by selection for appointment. We make the above clauses of the Scheme a part of our order.

As per the scheme, temporary employees were entitled to a chance to compete for regular recruitment.

As such the Hon'ble Supreme Court has settled all the disputes of the LIC and its workmen in several cases by order dated 23-10-1992 and approved the scheme. In the light of the scheme approved by the Hon'ble Supreme Court, the Hon'ble Delhi High Court has allowed the writ petition of the management, Life Insurance Corporation of India and others in view of the scheme framed by the petitioner in 1992(4) SCC 118 and approved by the Hon'ble Supreme Court. As such, all the disputes between the workmen and the LIC shall be deemed to be settled under the scheme approved by the Hon'ble Supreme Court.

It was further submitted from the side of the federation that they were not then parties before the Hon'ble Supreme Court. Whether they were the parties or not, the matter has been finally settled by the Hon'ble Supreme Court and if they are aggrieved they may approach the Hon'ble Supreme Court for changing the scheme framed and approved by the Union of the LIC and the LIC. It was further submitted by the federation that they have been working for a long period in the LIC but they were directed to compete with the general candidates and even no weightage was given to the employees already working under the LIC and the LIC has arbitrarily without giving any weightage to the workmen already working with the LIC has appointed new hands and has not absorbed them.

From the perusal of the records, it transpires that injustice has been done with the workmen who were working in the LIC and they have not been absorbed but the union itself agreed to the scheme framed by the LIC and that was approved by the Hon'ble Supreme Court so nothing is left for this Tribunal to adjudicate upon or decide. It was further submitted that in the scheme Para C only gives relaxation in age and Para D required them to apply for regular recruitment in the normal course and the regularisation will in the circumstances, be by selection for appointment. It was submitted that the service rendered by the work applicant has not been considered while making appointment. The Union has agreed to the scheme framed by the LIC and it has got the seal of approval of the Hon'ble Supreme Court as such the matter may be again raised before the Hon'ble Supreme Court as everything has been finalized. The Scheme was approved in 1992 whereas the ID case was pending in 1991. As such, ID case No. 27/1991 merged in the scheme approved by the Hon'ble Supreme Court. Their remains nothing to be adjudicated upon or to be decided in view of the judgment of the Hon'ble Supreme Court and the Hon'ble Delhi High Court referred to above. In case any injustice has been caused to the workmen i.e. due to bargaining of the union, the union has conceded to the scheme framed by the LIC. Of course, there appears to be no proper dispensation of justice but if the union has entered into a compromise before the Hon'ble Supreme Court and that scheme has been approved, every appointment is to be made according to the scheme formulated and the workman cannot get relief of reinstatement.

The law cited by the workman applicant is not applicable in the facts and circumstances of the case. His entire rights have been merged in the scheme approved by the Hon'ble Supreme Court as he was Party in ID No. 27/1991. If the claimants of ID No. 27/1991 have not got any relief this workman applicant can also get no relief. This workman applicant is allegedly a part-time sweeper. She could not get any relief in the original reference 27/1991 so no separate relief can be given to her. The main reference has gone against the workmen along with this workman applicant. This complaint is to be replied as a reference in the same manner. The workman applicant is not entitled to get any relief as prayed for.

ORDER

The applicant U/Section 33A of the ID Act, 1947 arising out of ID No. 27/91 is dismissed. The workman applicant is not entitled to any relief as prayed for. No order as to costs.

Date: 16-03-2005.

R. N. RAI, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1449.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या सी. आई. डी.-32/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-12014/2/2005-आई आर (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd March, 2005

S.O. 1449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. C.I.D-32/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of State Bank of India and their workman, which was received by the Central Government on 22-03-2005.

[No. L-12014/2/2005-IR (B-1)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, B. Sc., LL.B., Presiding Officer

Dated the 27th day of December, 2004

INDUSTRIAL DISPUTE L. C. I. D. No. 32/2004

BETWEEN:

Sri Yuvraj Singh,
R/o H. No. 14-10-474,
Lower Dhoolpet,
Hyderabad.

.....Petitioner

AND

1. The Deputy General Manager,
State Bank of India,
Rehabilitation and Recovery Branch,
(4106), Nr. Secunderabad H. P. O.
1-1-78, 1st floor, R. P. Road,
Secunderabad-500 003.

2. The Chief General Manager
State Bank of India,
Bank Street,
Hyderabad.

....Respondent

APPEARANCES:

For the Petitioner : M/s T. Bal Reddy, D. Sudha &
J. V. Ramaiah, Advocates

For the Respondent : M/s. B. G. Ravindra Reddy &
B. V. Chandra Sekhar, Advocates

AWARD

This is a case taken under Sec. 2A (2) of the I. D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W. P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are : that the petitioner joined the services of the respondent bank as a sweeper-cum-water boy on 28-1-87 and with best of services and good work he was promoted as Messenger in the year 1993. He has put in unblemished record of service till he was illegally discharged by the respondent on 7-6-2003 and the order of discharge passed by the respondent is illegal, unjust and contrary to law and in violation of principles of natural justice. That he suffered with illness and intimated the bank officials through his colleagues from time to time whenever he fell sick and applied for leave. He was issued with chargesheet on 1-4-2001 alleging that the petitioner has unauthorisedly absented himself from 12-5-98 to 1-10-2001, for 896 days. That the capital punishment of discharging services shockingly disproportionate and hence, he may be reinstated and the dismissal order dated 7-6-2003 may be set aside.

3. A counter was filed that he absented himself for 896 days as he did not respond to the letters issued from the bank as such an enquiry officer was appointed. He was issued several notices even on 28-11-2002. Hence, an enquiry was conducted and a report was filed on 14-2-2003 and he was dismissed. He was issued again a show-cause notice dated 24-3-2003 proposing to inflict the punishment of "discharge from service". After duly considering the submissions made by the petitioner a personal hearing was held on 7-6-2003, has passed the order dated 7-6-2003 imposing the punishment of discharge with superannuation benefits as it would be due without disqualification from future employment. The petitioner filed an appeal dated 30-6-2003 which was also rejected. The petitioner was defended by the Deputy General Secretary of the union and having availed of full opportunity has now made allegations with an ulterior motive. A medical certificate dated 5-5-2002 has covered the period from 1-1-2001 to 4-5-2002. There is no explanation for his absence

from 12-5-98 to 31-12-2000. Hence, the petitioner is not entitled for any relief as already he was given superannuation benefits.

4. The counsel for the petitioner concedes that the domestic enquiry is validly conducted. Hence, arguments under Sec. 11A heard by both the counsels. The chief examination affidavit filed by the Petitioner is eschewed from the record as the enquiry conducted is conceded by the Learned Counsel for the Petitioner as valid.

5. It is argued by the Learned Counsel for the petitioner that the punishment is very harsh and disproportionate. He having been worked as sweeper-cum-water boy in 1987 and promoted as Messenger in 1993 and he has been working sincerely from 12-5-98 but due to circumstances beyond his control he has absented himself and therefore mercy may be shown to him and he may be taken back into service.

6. The Learned Counsel for the Respondent submits that after all being absent for 896 days i.e., for about 2 years 5 months cannot be condoned in the state of affairs it will not be possible for the bank or any institution to work. Further, taking into consideration his age which is about 40 years, all those things that he has rose from sweeper-cum-water boy to the post of messenger, he was given discharge from service with superannuation benefits i.e., Provident Fund, Gratuity etc., under the rules and regulations and without disqualification for future employment. Hence, no further relief may be given to him.

7. It may be noted that condoning the delay of 896 days absence without any justifiable excuse does not appear to be reasonable. However, I am afraid he may not get any pension at all as he has worked only from 28-1-87 to 12-5-98 i.e., only about 11 years 4 months. However, as the quality of mercy is not strained, hence, while upholding the punishment of discharge with superannuation benefits as would be due otherwise at that stage and without disqualification from future employment. I hold that as he has put in 11 years 4 months of service which may be rounded to 12 years, he shall be given 6 months last drawn pay within 30 days from the publication of this award failing which he will be entitled to 6% p.a. interest on that amount.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 27th day of December, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 22 मार्च, 2005

का.आ. 1450.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 21/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-03-2005 को प्राप्त हुआ था।

[सं. एल-12012/395/95-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd March, 2005

S.O. 1450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Syndicate Bank and their workmen, which was received by the Central Government on 21-03-2005.

[No. L-12012/395/95-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESENT:

Shri S. S. Bal, Presiding Officer

I. D. No. 21/97

Shri Chander Satija, S/o N. L. Satija, Clerk.
Syndicate Bank,
Nehru Place Branch,
New Delhi

Through Zonal Secretary,
Syndicate Bank Staff Association,
Ram Naresh Bhawan, Tilak Gali,
Pahar Ganj, New Delhi.

.... Workman

VERSUS

1. The Deputy General Manager,
Syndicate Bank, Zonal Office,
Zonal Office, Sarojini House,
6, Bhagwan Dass Road,
New Delhi-110001.Management

APPEARANCES : Workman in person.

Shri Rajesh Mahendru for
Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/395/95-IR.B-II dated 7-1-97 has referred the following industrial dispute to this Tribunal for adjudication:-

“Whether the action of the Management of Syndicate Bank, Zonal Office, Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001 in not empanelling Shri Chander Satija at the top of the panel prepared for the purpose in the period w.e.f. 22-4-91 at their Nehru Place Branch is legal and justified? If not, what relief the workman is entitled to and with what date?”

2. Brief facts of this case as culled from record are that the workman Shri Chander Satija claimed that he passed the aptitude test for ALPM operator which was conducted by the management on 1-4-1991 and he was declared successful on 22-4-91 and as such he became entitled to entrustment of duties of ALPM operator carrying cash allowance vide circular dated 11-11-89 the management has announced the scheme and procedure to entrust the successful candidates to operate ALPM vide said circular dated 11-11-89. The bank circulated the scheme assigning duties of the operators and evolving a procedure amending the provirus one. According to the said circular the successful candidates were to be put on the top of seniority list at the time of departmental change and employees who are in the out going panel and employees who had joined in between, have to be put in the bottom while preparing the new panel. He further stated that at time of departmental change the employee who had joined the branch during the existing panel had been placed on the top of the list and he being successful candidate was not put on the top and instead his name was put against the leave reserved. The workman made representation dated 1st of May, 91 and 1st of June, 92 to A.G.M. Nehru Place Branch, New Delhi and thereafter on 7-1-93 to D. G. M. Zonal Office but of no avail and the respondent management upheld its action. The said action of the management is illegal & against principle of natural justice and is in violation of circular dated 11-11-89 and it also amounts to unfair labour practice and has been done to harass and victimise the

workman and the workman has suffered financial loss w.e.f. 22-4-91 by being put at the bottom of the panel which resulted in his turn to come late causing loss of allowances on account of not assigning duties of ALPM operator on the basis of permanent rotation of six months amounting to Rs. 8,420/- which the claimant claims alongwith interest @ 22.5%. The workman approached the Assistant Labour Commissioner who submitted the failure report and thereafter appropriate government has made the above reference. The claimant desires an Award in his favour directing the management to pay the aforesaid amount.

3. Claim has been contested by the management by filing written statement stating that the reference has been made without proper application of mind and the workman is not entitled to the allowances claimed as he has got duties of ALPM entrustment within a period of 22 months. The claim is not maintainable and the penal of entrustment of ALPM duties was correctly prepared and the workman has not suffered any loss. He has not interpreted the circular dated 11-11-89 correctly.

4. The written statement has been followed by rejoinder wherein he denied the contents of the written statement of the management and reiterated the contents of the claim petition. However, he admitted in replication that he has been appropriately placed in the undated panel of seniority by the management.

5. Thereafter the evidence was adduced of both the parties by filing their respective affidavits.

6. The workman examined himself as WW1 and proved his affidavit as Ex. WW1/A while the management examined Shri P.K. Rastogi Manager on behalf of the management as MW1 and his affidavit was placed on record and after close of the evidence arguments were heard at length.

7. The question which needs determination in this case is whether the claimant is entitled to ALPM allowance as claimed.?

8. The workman case in short is that he on transfer in Nehru Place Branch of the respondent Bank should have been placed at the top in the panel of seniority for entrusting ALPM Operators duties of six month permanent basis and he suffered financial loss as claimed as he has not been assigned due place as top of the panel. The management controverted his claim on the plea that he (claimant) has been placed at the correct place in the seniority panel after/ Below one Mr. V. B. Kujur who was qualified the aptitude test of successful candidates alongwith him (Claimant). Mr. Kujur joined the Nehru Place Branch of the Bank in the month of January 1990 earlier to him. Hence he was placed at Sl. No. 1 in the seniority panel of successful candidates of Nehru Place Branch of Syndicate Bank. Prepared after the earlier panel was exhausted as per procedure and

direction contained in circular dt. 11-11-89. It would, therefore, be appropriate to refer to the relevant portion of the said circular pertaining to the procedure laid down for preparation of panel or seniority list of the candidates for the selection of the ALPM operators for entrustment of duties. The relevant portion of the said circular is as under :

“While implementing the provisions of this Settlement it is observed that every time a fresh panel (of candidates who have passed the aptitude test) is drawn up according to the branch seniority the seniors who had already performed the duties in the immediately preceding term/ cycle of rotation, would invariably be placed at the top of the panel, thereby getting the opportunity in quick succession whereas those freshly empanelled would have to wait for a considerably long period for their first term/ opportunity”.

Once the existing panel has been exhausted the second panel will be prepared in the following manner.

The branch/office wise seniority list of freshly selected candidates will be drawn up. This will be followed by the candidates in the existing panel in the same order of their place in the said panel. Thus the second panel will have freshly selected candidates in the order of seniority on the top followed by the candidates in the earlier panel. A clerk who had a term in another branch and has joined the branch will not be treated as a freshly empanelled candidate but will be empanelled at the bottom of the 2nd panel. Thus from the above procedure the following points emerges.

1. Branch/Office wise seniority list of freshly selected candidates will be drawn up.
2. Second panel of successful candidates for selection of ALPM Operator for entrustment of duties to them will be prepared after the existing panel has been exhausted.
3. This list/seniority list would be followed by candidates in the existing panel in the same order of their place in the said panel. Thus in the second panel the freshly selected candidates would be placed on the top.
4. A clerk who had term in the branch and joined the branch would not be treated as freshly empanelled candidate but will be empanelled at the bottom of second panel and after first panel is exhausted third panel will be prepared. Thus the procedure mentions about existing panel and second panel, existing panel is to be exhausted first and thereafter second panel will be prepared. Candidates in the existing will be placed at the

bottom of the second panel. The management in its written statement has stated that one V.B. Kujur and the workman passed the said test of ALPM at the same time and Mr. Kujur joined Nehru Place Branch on 11-1-1990 whereas the workman joined the said Branch on 20th July, 1990 and their names were included in the panel as per provisions of the settlement. The workman claimant has not denied specifically that he and V. B. Kujur passed the aptitude test of ALPM at one and the same time. In his rejoinder he has also stated that in the undated annexure filed by the management he has been placed appropriately, however his entrustment of duties was not given as per seniority and in conformity of clause 10 of circular dated 12-12-87 which amounts to violation of provisions of settlement on the part of management resulting in grave injustice to him. Thus the workman in his rejoinder admits that he has been placed appropriately in the undated panel which goes to show that his placement in the panel of successful candidate prepared after 22-4-91 is correct but his grouse is that he has not been entrusted duties of ALPM test machine operator regularly which violated the other circular dated 12-12-87. In rejoinder he does not seem to have the grievance that in the panel of successful candidate for entrustment of ALPM duties, his name should have been placed at top as per procedure contained in the circular dated 11-11-89. As regards his grouse for not providing duties of ALPM, it may be pointed out that in his statement recorded on 14-1-99 in his cross-examination he has admitted that duties of ALPM are on rotational basis and he could not say if he was given the duties for 14th months from 1st May, 85 to 31-12-93. In his cross-examination recorded on 30-11-2000 he has admitted that he was given of ALPM duties w.e.f. 1st September, 1991 to 30-6-92 but the duties were given intermittently from this it is apparent that he has been assigned duties on rotational basis. His other grouse in cross-examination against inclusion of employees in the panel shown at Sl. No. 24 to 30 in the list prepared by the management who have cleared required test for ALPM operators duties and performed duties earlier before joining the Nehru Place Branch is itself explanatory, for these employees at Sl. No. 24 to 30 have already been placed below the successful candidates who have not performed duties earlier.

9. Regarding his complaint about non-entrustment of duties being violation of circular dated 12-12-87 referred

to above para 7 of the said circular says that "entrustment of duties of ALPM/AEAM will be made to the candidates empanelled as in Cl. 6 above in the order of their Seniority on the basis of "One machine one Operator" (subject to para 4 of the Bi-partite settlement dated 29th March, 1987) as and when ALPMs/AEMs are installed at the identified Branches or as and when vacancy arises on account of transfer/promotion/relinquishing the duty/ceases to perform the duty of/by the regular incumbent. There shall be no ALPM/AEAM operators for Stand-by machines and stand-by machine/s shall not be reckoned for determining vacancies". While para 11 of the said circular says whenever the services of regular operators are not available, temporary entrustment of duties will be made to the candidates as per their seniority in the Panel referred to under Cl.6 above. This circular does not mention that the empanelled candidates will be given/entrusted duties of ALPM permanently and regularly on every day of basis or that they would not be given reserved duties against leave vacancies. It is also apparent duties from the perusal of the said circular that the duties of the ALPM Operator are routable and rotation of duties will be among the candidates empanelled and will be given on six months basis. This circular and any other circular do not provide that such duties shall be assigned/given daily regularly or permanently for a period of six months besides the claimant has failed to prove or point out that he has been discriminated in the matter of assigning duties of ALPM as complained or that any other empanelled candidates has/have been given or assigned more duties than what were assigned to him. He has also failed to prove that he is entitled to the claim of the entrustment of ALPM duties on the very day when he was declared successful candidate on 22-4-91. He had also failed to show that the rotational duties of ALPM operators were to be assigned permanently as claimed by him such duties are to be assigned as and when vacancies arise on account of transfer promotion/relinquishing the duty or some one ceases to perform duties of/as per Clause 7 of the circular dated 12-12-87 referred to by the claimant. The claimant has preferred his claim, on the assumption that he is to be assigned duties of ALPM operators on permanent or regular basis everyday continuously during period of rotation of x months which to my mind does not appear to be correct and is not in conformity with the circular referred to above by the claimant. Moreover, the claimant has not performed duties of ALPM operator for the period he is claiming allowance. In my view he is not entitled to the claim of special pay and allowances for period without performing duties of operator particularly when he has failed to prove his entitlement to such claim. In view of the above discussion I am of the view that the action of the management of Syndicate Bank in not empanelling Shri Chander Satija at the top of panel prepared for the purpose in the period w.e.f. 22-4-91 at Nehru Place Branch is legal and justified and the workman is not entitled to

any relief as claimed. Award is made according. File be consigned to record room.

Dated : 17-3-2005

S. S. BAL, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार 24 डिवाजन, आई एस एफ कैम्प के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर, के पंचाट (संदर्भ संख्या सी. जी.आई. टी. 44/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/8/2004-आई आर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-44/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of 24 Division, ISF Camp and their workman, which was received by the Central Government on 22-3-05.

[No. L-14012/8/2004-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR.

Case No. CGIT-44/2004.

REFERENCE No. L-14012/8/2004-(IRDU)

Sh. Raja Babu Khan,
S/o Sh. Hussain Khan,
R/o Village-Ridmalsar,
Bikaner.

..... Applicant

Versus

The General Commanding Officer,
24 Division, ISF Camp, Cook House,
Bikaner.

..... Non-applicant

PRESENT:

Presiding Officer : Sh. R. C. Sharma
 For the applicant : Sh. Shiv Avtar Singh
 For the non-applicant : None
 Date of Award : 25-02-2005

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of sub-section 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :

" Whether the action of management 24 Division, ISF Camp, Bikaner in terminating the service of claimant Sh. Rajababu Khan S/o Sh. Hussain Khan w.e.f. 20-9-2000 is legal and justified? If not, what relief the claimant is entitled to and from which date?"

2 The workman in his statement of claim has pleaded that he was employed as a Civil Cook on 1-1-1997 by an oral order of the Officer Commanding at 24 Infantry Division, ISF Camp, Cook House, Bikaner in the capacity of a casual labour, who continuously worked up to 20-9-2000. According to his averment, the belt number was not allotted to him and the kind of the work assigned to him was that of a civil nature and that he was not enrolled as a regular soldier. But without complying with the requirements under Section 25-F of the Act, his service was terminated on 20-9-2000. He has also stated that at the time of his termination, the junior employee to him Sh. Sajjan Kumar Harijan, Cook, was retained in the service in violation of the provision under Section 25-G of the Act. He has further stated that a work experience certificate was issued in his favour on behalf of the non-applicant management stating that he is performing the good work since November, 1997. He unsuccessfully raised an industrial dispute before the Conciliation Officer, who submitted the failure report to the Central Government. He has prayed for his reinstatement in the service with its continuity and back wages.

3. The non-applicant, in his written counter, has stated that the workman was temporarily employed as temporary personnel in the Unit Cook as a Cook w.e.f. 1-1-1998, that he was employed during the leave period of the regular Unit Cook under the rules for the services and that he was not allotted the army belt. It is further stated that he had worked till 7-2-2001 and the details thereof are shown in the Appendix B. It is the further averment of the non-applicant that the disputant was not employed for more than 30 days except on occasion when his service has been utilized for 61 days continuously w.e.f. 1-12-99 to

30-1-2000. His attendance was also maintained in the attendance register. The non-applicant has also taken a plea that the disputant was not employed in any profit earning industry and before employing him, he was clearly told that his services were required for a fixed period.

4. On the pleadings of both the parties, the following points for determination were framed :—

I. Whether the workman was appointed as a casual worker by the non-applicant establishment on 1-11-1997, who had completed 240 days of actual work in the calendar year preceding to his termination and whose service was terminated on 20-9-2000 in violation of Section 25-F of the Act?

II. Relief, if any?

5. At the stage of the submission of workman's evidence on 2-2-2005, *ex parte* proceeding was drawn against the non-applicant.

6. In the evidence, the workman has submitted his affidavit. He has also led the documentary evidence.

7. I have the heard Ld. representative for the workman and have scanned the record.

The point-wise discussion follows as under :—

Point No. 1

8. The Ld. representative for the workman contends that the workman had continuously worked from 1-11-1997 to 20-9-2000 as a Civil Cook by an oral order of the non-applicant, who was subsequently terminated in violation of Section 25-F of the Act. The Ld. representative has placed his reliance upon the certificate Annexure I issued by the Officer Commanding.

9. I have considered the submissions advanced on behalf of the workman.

10. It is the case of the workman that he was employed as a daily Civil Cook in 24 Infantry Division, ISF Camp, Cook House, Bikaner, who continuously worked from 1-11-97 to 20-9-2000 and thus has completed over 240 days of actual work. In support of his submission, he has brought on the record an experience certificate Annexure-I dated 27-2-99 which has been issued by the Lieutenant Colonel, Officer Commanding and it says that Sh. Raja Babu Khan was working as a Civil Cook in the headquarters camp w.e.f. November, 1997 till date. Accordingly, on the strength of this document, the workman has completed over 240 days of actual work under the employment of the non-applicant establishment in a calendar year preceding to his date of termination.

11. Now, the next pertinent question with which I am faced with is whether the disputant is a workman and the non-applicant establishment is an industry as defined under Section 2-S and 2-J of the Act respectively?

12. Section 2-S of the Act lays down that a workman means any person employed in any industry to do any manual work for hire or reward for the purposes of any proceeding under this Act in relation to an industrial dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 or the Army Act, 1950.

13. Thus, to comply with the requirements as laid down under Section 2-S of the Act, one of the ingredients is that such a person should be employed in any industry and, the another is, that he should not be subject to the Army Act.

14. In the instant controversy, it has been categorically mentioned in the reply to the claim that the disputant was employed by the non-applicant under the provision of para 39 exception of leave rules for the services Volume I (1976) and a photocopy thereof is placed on the record. The relevant rule says that "no substitute will be engaged in place of artificers EME who proceed on leave. Substitutes employed under the above provisions will be engaged on a temporary basis and will be classified as temporary personnel".

15. It, therefore, follows that the disputant was engaged on temporary basis who is classified as a temporary personnel and the non-applicant was authorized to employ him under the said provision. It further appears that the said rules are framed under the Army Act. Thus, the employment of the disputant under the Rules *supra* exclude him from the definition of the workman as defined under Section 2-S of the Act.

16. Now the question which remains for consideration is whether the non-applicant establishment is an industry? To term the establishment as an industry the following criteria laid down in Banerjee case (AIR 1953 SC 58) has to be followed:—

"(a) Where there is a (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss, i.e. making, on a large scale, *prasad* or *food*) *prima facie*, there is an 'industry' in that enterprise."

17. In the light of the said criteria, it can be assumed safely that the workman was not employed in any profit

earning industry and the non-applicant department is not carrying out any economic activity for profit. Thus, in view of the aforesaid principle, the non-applicant department cannot be termed as an industry.

18. The Id. representative for the workman in support of his submission has placed before me a photocopy of the unreported order delivered by the Central Administrative Tribunal, Jaipur, in the case of *Narpatlal & Ors v. Union of India & Ors.* and *Savai Singh v. Union of India & Ors.* wherein the bench of the Central Administrative Tribunal has held that the petitioners working with the engineering force were casual labourers. The another unreportable judgement relied upon by the Id. representative is of the Hon'ble Supreme Court rendered in *Union of India & Ors. v. Narpatlal & Ors.* wherein the Hon'ble Apex Court has observed that the respondents are the casual labourers, who neither wear the uniform nor hold a lien on any part nor they are the members of the armed forces and in that view of the matter, the appeals preferred against the order of the Central Administrative Tribunal were dismissed.

19. Obviously, both these decisions referred to on behalf of the workman relate to the matter arising under the Administrative Tribunal Act, 1985 and they do not deal with any controversy under the ID Act. Hence, the Id. representative does not gain any assistance from them.

20. In view of the aforesaid legal position, neither the provision under Section 2-S of the Act is attracted nor the non-applicant department can be treated as an industry under Section 2-J of the Act and the contention of the workman is not sustainable. Accordingly, this point is decided against the workman.

RELIEF

21. Although no issue has been framed on the question of contravention of the provision under Section 25-G of the Act, yet the workman has taken this plea. I, therefore, deem it proper to examine it. He has pleaded in his claim statement that a junior employee to him named Sh. Sajjan Kumar Harijan was retained at the time of terminating his service. He has also reiterated this fact in his affidavit. But in support of his testimony, he could not be able to bring any documentary evidence on the record. Therefore, his deposition on the point stands uncorroborated and cannot be accepted.

22. For the foregoing reasons, the workman is entitled to no relief.

23. In the result, the reference is answered in the negative against the workman and in favour of the non-applicant and it is held that the termination order of the workman w.e.f. 20-9-2000 is legal and justified and his claim is dismissed. An award is passed in these terms accordingly.

24. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या सी. जी.आई. टी. 23/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-40012/64/2002-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1452:—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-23/2002) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-40012/64/2002-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-23/2002

Reference No. L-40012/64/2002-IR (DU)

Sh. Santosh Kumar,
S/o Sh. Hanuman Ram,
R/o Ward No. 1, Harijan Basti,
Fatehpur Shekhawati,
Sikar.

... Applicant

Versus

I. Manager,
Telephone Exchange,
Bharat Sanchar Nigam Ltd.,
Fatehpur Shekhawati,
Sikar.

... Non-applicant

PRESENT:

SHRI. R.C. Sharma, Presiding Officer

For the applicant : None

For the non-applicant : Sh. B.N. Sandhu
Sh. Jagdish Singh,
Officer In-charge.

Date of Award : 28-02-2005

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of Sub-sections 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

"Whether the action of the management of Telecom in terminating the services of Sh. Santosh Kumar S/o Sh. Hanumanram w.e.f. 1-5-2001 is legal and justified? If not, to what relief the workman is entitled and from which date?"

2. The workman in his statement of claim has pleaded that in the month of April, 1994 he was employed as a daily rated workman by the non-applicant department in the office at Fatehpur Shekhawati, Distt. Sikar, who performed the jobs similar to that of a 4th Class and continuously worked up to April, 2001. But on 1-5-2001, in violation of Section 25-F of the Act, his service was terminated. He had completed more than 240 days in each calendar year from the period April 1994 to April 2001. He has further pleaded that at the time of terminating his service the junior employees to him were retained by the non-applicant department in violation of Section 25-G of the Act. He unsuccessfully raised an industrial dispute before the Conciliation Officer. He has urged that his termination order dated 1-4-2001 be declared illegal and he be reinstated in the service with its continuity and all other consequential benefits.

3. The non-applicant, in his written counter, has disputed the claim of the workman by stating that the workman was never engaged on daily rated basis during the period April 1994 to April 2001 and that as and when the work of Sweeper was taken from the applicant, the amount of that work was paid to him on the very date. It has further been averred that from the month of October, 2000, the telephone department has been changed to BSNL and from that date no casual labour has been appointed in the BSNL.

4. In the rejoinder, the workman has reiterated the facts as stated in the statement of claim.

5. In the evidence, the workman has submitted his affidavit, who was cross-examined on behalf of the non-

applicant on 19-1-2005. The case was then fixed for the evidence of the non-applicant on 2-2-2005. On this date none was present on behalf of the workman and the non-applicant sought an opportunity for production of evidence. On the next date, i.e. on 18-2-2005, the counter-affidavit of Sh. Jagdish Singh, SIDOT, was placed on the record on behalf of the non-applicant and on this date too, none was present on behalf of the workman. The case was thereafter posted on 28-2-2005 for cross-examination of this witness. On this date also none was present on behalf of the workman. Therefore, despite the opportunities provided to the workman to cross-examine the management witness, he did not avail the opportunity and hence the testimony of Sh. Jagdish Prasad is admissible in evidence.

6. The non-applicant has placed on record the details of payment which were made to the workman through ACG-17. Apart it, on 14-5-2004, on the request of the workman the non-applicant department was called upon to produce the relevant record before the Court for the inspection of the representative for the workman, which was produced on various dates and on 26-10-2004, it was inspected by the representative for the workman. The workman has chosen not to file any document on the record.

7. On three consecutive dates i.e. on 2-2-2005, 18-2-2005 and 28-2-2005, none was present on behalf of the workman.

8. I have heard the Id. representative and officer in-charge on behalf of the non-applicant department and have scanned the record.

9. Now, the questions for determination are (i) whether the workman has completed over 240 days of continuous service in the calendar year during the period from April 1994 to April 2001 preceding to his termination, whose service was terminated in violation of Section 25-F of the Act, and (ii) whether at the time of terminating his service, the junior employees to him were retained by the non-applicant department in violation of Section 25-G of the Act?

10. On behalf of the non-applicant, it has been argued that the workman was never employed as a daily rated workman, rather on few occasions the cleaning work was taken from him, for which the payment of wages were made and the relevant entries had been entered into ACG-17 which has been placed on the record.

11. The workman in his affidavit has stated that he has continuously worked from April 1994 to April 2001 as a 4th Class employee. But in his cross-examination, he has stated that he was performing the cleaning work and that he has no document with him indicating that he had worked from April 1994 to April 2001 with the non-applicant

department. The workman has not been able to bring on record any documentary evidence in support of his testimony and his oral evidence is also contradictory in itself. In his affidavit he has stated that he was working as a Sweeper and was performing all kinds of work similar to that of a 4th Class. But in his cross-examination, as stated earlier, he has admitted that he was performing the cleaning work. Thus, his testimony becomes unreliable.

12. As against it, the details of payment of wages as exhibited in ACG-17 indicate that in the following months the workman was paid Rs. 300/-respectively for performing the sweeping work on various dates : February 2000, 2-3-2000, 3-5-2000, 3-6-2000, 1-7-2000, 4-8-2000, 6-10-2000 and 29-10-2000.

13. Thus, it is perfectly clear on the basis of the materials available on the record that neither the workman has completed over 240 days in a calendar year during the period April 1994 to April 2001, nor he had completed more than 240 days of actual service in a calendar year preceding to the date of his termination. Accordingly, he is not entitled to get the protection under Section 25-F of the Act. It is also pertinent to state here that even after awarding an opportunity of inspection of the relevant documents to the workman, he could not be able to bring any document on the record to substantiate his claim. Thus, he has utterly failed to prove the factum of completion of 240 days of actual work in a calendar year with the management. This point is accordingly decided against the workman.

So far as the retention of the junior employees at the time of terminating the service of the workman is concerned, the workman has not even named such persons in his pleadings. However, in his cross-examination, he has disclosed that during the period he was working with the department, a permanent employee named Sh. Sua Lal was recruited in the year 1999. The recruitment of an employee on regular basis even when the workman was working is entirely a distinct matter which is not relevant to the controversy herein. Therefore, on this point too the workman has failed to produce any evidence in support of his submission, which is untenable.

15. To conclude, on the aforesaid analysis of the evidence, the workman is entitled to no relief.

16. Accordingly, the reference is answered in the negative against the workman and in favour of the management and it is held that the termination order of the workman dated 1-5-2001 is legal and justified. His claim is rejected. An award is passed in these terms accordingly.

17. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चैन्नई टेलीफोन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 308/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-40012/73/2003-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 308/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Chennai Telephones and their workman, which was received by the Central Government on 22-03-2005.

[No. L-40012/73/2003-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHANNAI**

Tuesday, the 23rd November, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer:

I. D. No. 308/2004

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Chennai Telephones and their workmen].

BETWEEN:

Sri M. Krishnamurthy : I Party/Workman

ANDThe General Manager, : II Party/
Chennai telephones, : Management
Chennai.**APPEARANCE:**For the Workman : M/s. R.
Rengaramanujam,
AdvocatesFor the Management : Mr. G. Jayachandran,
ACGSC**AWARD**

The Central Government, Ministry of Labour vide order No. L-40012/73/2003-IR(DU) dated 03-02-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the claim of Shri M. Krishnamurthy for regularisation and reinstatement with continuity of service along with back wages from the management of Chennai Telephones, BSNL, Chennai is legal and justified and if so, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 308/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was working as a token clerk on daily wage basis in the canteen run by the canteen committee in the office of the Deputy General Manager (North) at Rajaji Salai, Chennai from 29-8-90. He served continuously without any break upto 31-12-97. Thereafter, he was transferred to office of the Deputy General Manager (North-west) at Veperi and served there from 1-1-98 to July, 2000 as class IV employee under the control of the Accounts Officer (TR). Since he has served more than ten years without any break, the Petitioner requested the Respondent/Management to regularise her service, but the Respondent/Management has orally terminated his service and he was not given any employment thereafter. Therefore, the termination of the Petitioner is in gross violation of Section 25F of the Industrial Disputes Act. Even the Petitioner's representation has not given any effect. Still there are vacancies in the canteen and number of persons are still engaged as Casual Labour in the canteen who are far juniors to the Petitioner. Further, existing employees were given over time wages to cope up with the increased workload. Therefore, the Petitioner has raised the industrial dispute before the Labour Commissioner and on its failure, the matter has been referred to this Tribunal. though there are several vacancies to absorb the Petitioner as Group D employee under the control of the Respondent, instead of absorbing the Petitioner the Respondent is trying to run the canteen by engaging contractors. Hence, the Petitioner prays to pass an award directing the Respondent to absorb the petitioner in any one of the vacancies and regularise his services.

4. As against this, the Respondent in its Counter Statement has contended that at no point of time the Petitioner served under the Respondent/Management. there is no privity of contract between the petitioner and the Respondent/Management. Hence, the petition is not maintainable. This Respondent is in no way connected with the canteen committee referred to by the Petitioner.

The said canteen committee is run by the staff of the Respondent/Management through welfare committee and on no loss—on gain basis and this Respondent is no way connected with the affairs of the canteen. This Respondent is not aware, as to whether the Petitioner has worked as token clerk from 21-8-90 to 31-12-97. It is false to allege that the Petitioner was working as Casual Labour in the Office of Deputy General Manager (North West) at Veperi from 1-1-98 to July, 2000 as Class IV employee. The recruitment of Casual Labour in the Respondent/Management is prohibited from the year 1985. The petitioner never worked in the Respondent/Management and hence the question of terminating him from service does not arise at all. Therefore, the provisions of Section 25F of Industrial Disputes Act, has no role to play. The workers of canteen are paid by welfare committee from the sale proceeds. The canteen workers are not paid by consolidated funds of India so as to claim any service in against the Respondent/Management. Just because persons who manage the Canteen Committee are employees of the Respondent/Management, it does not mean that the employees of the canteen are also employees of the department. The Petitioner cannot be allowed to enter through back door and get employment in a public sector company short circuiting the normal procedure established for recruitment. Even the Petitioner's documents will clearly establish that he was an employee in the staff canteen run by the committee. Under recruitment rules, the Accounts officer is not conferred with power to appoint nor authorised to issue identity card for the employees of the Respondent/Management. The entry pass itself will clearly establish that he is not an employee of the telephones department. Hence, for all these reasons, the Respondent prays to dismiss the claim of the Petitioner with costs.

5. Again, in the rejoinder submitted by the Petitioner, it is alleged that the canteen run in the Office of the Deputy General Manager (North) as a welfare measure for the benefit of the staff working in the said office, within the premises under the direct control and supervision of the canteen committee nominated by the Respondent is a non-statutory canteen covered by the decision rendered by the Supreme Court. The Government of India after the judgement of Supreme Court issued an Office Memorandum dated 20-1-1992 that the employees of non-statutory departmental canteen/tiffin room located in Central Govt. offices should be treated as Govt. servants w.e.f. 1-10-1991. Therefore, the Petitioner is entitled for employment in any of the existing vacancies in the canteen functioning under the control of the Respondent/Management. Hence, he prays that the claim may be allowed.

6. In such circumstances, the points for my determination are:—

- (i) "Whether the claim of the Petitioner for regularisation and reinstatement with continuity of service along with back wages

and attendant benefits from the Respondent/Management is legal and justified?"

- (ii) "To what relief the Petitioner is entitled?"

Point No. 1—

7. In this case, the contention of the Petitioner is that he was working as a token clerk on daily wage basis in the canteen run by the Canteen Committee in the office of the Deputy General Manager, (North) at Rajaji Salai, Chennai from 29-8-90 and it is his further contention that he has continuously worked without any break upto 31-12-97. It is also his contention that thereafter he was transferred to the office of Deputy General Manager (North West) at Veperi and served in that office from 1-1-198 to July, 2000 as Class IV employee under the control of the Accounts Officer (TR).

8. To establish this contention, the Petitioner has examined himself as WW1 and produced 8 documents as Ex. W1 to W8. Ex. W1 is the copy of service certificate given by the Secretary, O/o. Deputy General Manager (N) canteen (Tiffin Room). Ex. W2 is the xerox copy the temporary identity card issued by the Secretary, of the canteen O/o. Deputy General Manager (North) Madras Telephones in the year 1993. Ex. W3 is the copy of entry pass issued by Accounts Officer to the petitioner in the year 1993 and it was renewed upto 31-12-95. Ex. W4 is the xerox copy of the attendance register from 1-1-98 to 4-6-99 and Ex. W5 is the copy of conciliation notice issued by Labour Department. Ex. W6 is the failure report submitted by Assistant Labour Commissioner (Central). Ex. W7 is the copy of reference made by the Ministry of Labour and Ex. W8 is the xerox copy of the transfer certificate issued by Teachers Training Institute for Men, Chennai.

9. As against this, the Respondent/Management contended that at no point of time, the Petitioner served under the Respondent organisation namely Telephones Department and there is no prevy of contract between the Petitioner and the Respondent/Management. On the side of the Respondent/Management one Mrs. D. Kalaivani, Accounts Officer was examined. (on the side of the Respondent/Management, no document was marked before this Tribunal.

10. Learned counsel for the Petitioner contended that the main points to be decided in this case are "Whether the Petitioner worked in the canteen in the Respondent's office of Deputy General Manager (North) from 29-8-90 to 31-12-97"; "whether the said canteen was a non-statutory departmental canteen" and thirdly "whether the Petitioner worked in the Respondent's office of the Deputy General Manager (North West) Chennai from 1-1-98 to July, 2000. He further contended that the Respondent/Management has not disputed the fact the Petitioner was working as token clerk in the canteen run by the canteen committee in the office of the Deputy General Manager (North), Chennai.

The Accounts Officer, who was examined as MW1 has admitted that the Petitioner has worked in the canteen as a token clerk and further the Petitioner has produced certificate issued by the Secretary to the Canteen and also temporary identity card and entry pass issued by the Accounts Officer. Under such circumstances, it cannot be said that the Petitioner was working as token clerk in the canteen run by the canteen committee in the Office of the Deputy General Manager (North), Chennai from 29-8-90. The next question to be decided is 'whether the canteen run by the staff of Office of the Deputy General Manager (North), Chennai is a non-statutory departmental canteen or not?

11. On the side of the Respondent/Management, though the Accounts Officer was examined as MW1 to support the case of the Respondent, but she had admitted that the canteen was run with the permission of the Deputy General Manager, which is a proof of its being a departmental canteen. Though it was contended that it was run by the staff of the office of the Deputy General Manager (North) Chennai of Respondent office as a welfare measure, when the Petitioner has alleged that the accounts was scrutinised by the Deputy General Manager (North) periodically, it was not cross examined by the Respondent side and it is also not disputed by MW1 namely the witness examined on the side of the Respondent/Management. Further, the service certificate given by the Accounts Officer contains departmental seal. If it had been a privately run canteen by the staff, it would not have bore the official stamp of the Accounts Officer over this certificate. Though it is mentioned that Secretary of the Canteen, since the Accounts Officer is the ex-officio post as Secretary which in turn establishes the fact that control over the canteen by the office of the Deputy General Manager (North) and it clearly establishes that the canteen was a departmental canteen. Further, the certificates clearly establish that the Petitioner has worked from 29-8-90 without any break upto the beginning of 1995. Similarly, Ex. W2 and W3 also establish that the Petitioner was working as Casual Labour in the establishment of the Respondent's office of the Deputy General Manager (North). Though MW1 has stated that the Accounts Officer is not authorised to issue Ex. W3, they have not produced any document to show that Account Officer has no power to issue such entry passes. It was issued under the official seal of the Accounts Officer. Under such circumstances, it cannot be said that this entry pass was issued by an unauthorised person. It is also not disputed that canteen was run in the premises of the office of the Deputy General Manager (North) with furniture and fixtures provided by the office for the benefit of the staff alone and it is the evidence of the Petitioner that electricity charges were all borne by the said office only and this fact was also not disputed by the Respondent through cross examination or through evidence of MW1. The Petitioner has also produced Ex. W4 which is the copy of attendance register cum payment issue register for daily wagers.

Though MW1 has disputed this attendance register, she has no personal knowledge about the said document. Here again, MW1 has stated that Accounts Officer has no power to maintain attendance register like this. But, she has not stated that fact with any proof. It is a common knowledge that the Casual Labour cannot sign in standard or regular attendance register maintained by the department. Any how, whether Ex. W4 is in standard form or not is therefore, irrelevant. If the Respondent/Management wanted to disprove the M4's authenticity, they should have produced direct evidence to disprove the fact that examining the Accounts Officer and Mrs. T.B. Manohari who has signed in that document. It is admitted by MW1 that Mrs. T.B. Manohari was working as Accounts Officer in their department. Under such circumstances, the Respondent can examine the said Mrs. Manohari to disprove all these documents. It is the further contention of the Petitioner that in the department, recruitment of Casual Labour is prohibited from the year 1985 onwards and therefore, they disputed the contention of the Petitioner that he worked as Casual Labour in the year 1990. But they have not substantiated this contention with any material records because they have not produced any document to show that there was ban imposed by the Govt. and further they have not alleged that there is a statutory ban. Thus, the Petitioner has clearly established that he has worked as a Casual Labour continuously in the Department of Telephones from the year 1998 to 2000 and therefore, he is entitled to the benefits of Industrial Disputes Act and the non-engagement of the Petitioner, amounts to retrenchment and the action of the Respondent in not giving the benefits under the act is ab initio void and therefore, the Petitioner is entitled to claim as prayed for.

12. But, as against this, the learned counsel for the Respondent contended that though the Petitioner alleged that he was working as a token clerk in the canteen, the canteen, the canteen was run by canteen committee, the staff of the Respondent department through welfare committee and there is no connection between the Respondent and the canteen. The Respondent is no way connected with the affairs of the canteen and this Petitioner never worked under the Respondent and therefore, the question of terminating him from the services does not arise and provisions of Section 25F of the Industrial Disputes Act, has no role to play. It is his further contention that just because persons who manage the canteen committee are employees of the Respondent organisation, it does not mean that the employees of the canteen are also employees of the department. The workers in the canteen are paid by welfare committee from the sale proceeds and even in the service certificate produced by the Petitioner, it is clearly mentioned that he was paid out of the sale proceeds of canteen and therefore, the canteen workers especially the Petitioner was not paid by Consolidated Funds of India so as to claim any service lein against the Respondent/Management. In the recruitment rules of the Respondent/

Management the Accounts Officers are not conferred with power nor authorised to issue identity card for the employees of the Respondent/Management. Therefore, the entry pass filed by the Petitioner itself is sufficient to show that he is not an employee of telephone department but an alien to it. That is the reason why a pass is given to him to enter the premises of the office of the Deputy General Manager unlike the staff of Respondent/Management. For the staff of the Respondent/Management photo identity card given to them. Further, though the Petitioner produced Ex. W4, according to the Respondent, it is a concocted document and merely seal of the Accounts Officer was affixed in that document, it cannot be said that it is an authenticated document maintained by the Respondent/Management. Further, on a close scrutiny of the documents produced by the Petitioner, it can very well be inferred that these documents have nothing to do with the employment of the Respondent. Therefore, it is false to allege that the Petitioner has worked as Casual Labour under the Respondent/Management upto July, 2000. Further, since there was a ban for recruitment of Casual Labour in the Department of Telecom, the Petitioner has to establish that he was employed as Casual Labour in the Respondent/Management, but the documents produced by the Petitioner will not prove that he was engaged as Casual Labour in the Respondent department and therefore, this claim is not maintainable before this Tribunal.

13. But, though I find some force in the contention of the learned counsel for the Respondent, I find the Telephones Department has permitted the canteen to be run in the premises belonging to the department and the fact that it was managed by the staff of the Telephones Department has not been disputed. Further, the fact that accounts of the canteen are scrutinized by the Deputy General Manager and other higher officials is also not disputed. It is the further contention of the Petitioner that the Respondent administration provided the canteen with all facilities to run the canteen. Under such circumstances, I find it is only a departmental canteen of the Telephones department. Though the Respondent contended that they have no control on their working, I find only after the Memorandum issued by the Government of India dated 20-1-1992, the Petitioner has been transferred to the office of the Deputy General Manager (North West) at Veperi as a Casual Labour on contract basis and he has been disengaged as alleged by the Petitioner. The documents produced by the Petitioner clearly establish that he has worked as a token clerk in the canteen till the year 1997 and he has subsequently working as a Casual Labour under the control of Accounts Officer in the Office of the Deputy General Manager (North West) at Veperi. Since the Petitioner had worked not less than one year in each of the establishments, i.e. in the canteen as well as in the office of the Deputy General Manager (North West), Chennai, I find the termination of the Petitioner is nothing but a retrenchment in terms of Section 2(oo) of the Industrial

Disputes Act, 1947 and since the Respondent has not followed the mandatory provisions of Section 25F of the Industrial Disputes Act, the retrenchment is illegal. Therefore, I find the termination of the services of the Petitioner Sri M. Krishnamurthy is illegal and not justified. Hence, I find this point in favour of the Petitioner.

Point No. 2 :—

The next point to be decided in this case is to what relief the concerned employee is entitled?

14. In view of my foregoing findings that the termination of the services of the Petitioner is illegal, I find the Petitioner is entitled to be reinstated in service with back wages, continuity of service and other attendant benefits. Ordered accordingly. No Costs.

15. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 23rd November, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Workman : WW1 Sri M. Krishnamurthy

For the II Party/Management : MW1 Sri D. Kalaivani

Documents Marked :—

For the I Party/Workman :—

Ex.No.	Date	Description
W1	28-08-95	Xerox copy of the service certificate of the Petitioner
W2	24-06-93	Xerox copy of the temporary Identity card of the Petitioner
W3	20-12-93	Xerox copy of the entry pass issued to Petitioner
W4	4-06-99	Extract of the attendance register from 1-1-98 to 4-6-99
W5	28-8-02	Xerox copy of the conciliation notice issued by Assistant Labour Commissioner (Central), Chennai.
W6	3-3-03	Xerox copy of the failure of conciliation report.
W7	3-2-04	Xerox copy of the order of reference issued by Ministry.
W8	Nil	Xerox copy of the transfer certificate of Petitioner

For the II Party/Management :— Nil

नई दिल्ली, 22 मार्च, 2005

का.आ. 1454.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी एस एन एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 382/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-40012/238/2003-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 382/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of BSNL and their workman, which was received by the Central Government on 22-3-2005.

[No. L-40012/238/2003-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHANNAI

Tuesday, the 30th November, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 382/2004

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of BSNL and their workmen].

BETWEEN:

Sri P. Sukumar : I Party/Workman

AND

The Telecom District Engineer, : II Party/
BSNL Dharma Puri Management

APPEARANCE:

For the Workman : M/s. S. Jothivani &
B. Dhavamani, Advocates

For the Management : M/s. P. Arulmudi & Co.
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-40012/238/2003-IR(DU) dated 22-06-2004 has referred this Industrial dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

“Whether the demand of the workman Shri P. Sukumar from the management of BSNL for resintatement in the service is just and fair? If so, to what relief the workman is entitled to and from which date?”

2. After the receipt of the reference, it was taken on file as I.D. No. 382/2003 and notices were issued to both

the parties and both the parties entered appearance through their advocates and the Petitioner has filed their Claim Statement but the Respondent has not filed any Counter Statement in spite of giving several adjournments and therefore, the Respondent is set ex-parte.

3. The allegations in the Claim Statement filed by the Petitioner are briefly as follows :—

The Petitioner was appointed as a telephone operator by the Telecom District Engineer, Krishnagiri in the year 1980 under the Scheduled Tribe quota and he has rendered his service to the entire satisfaction of his superiors. The Petitioner belongs to Hindu Malayalee community which is included by Govt. of Tamil Nadu as Scheduled Tribe. Further, the Deputy Tahsildar, Headquarters office Krishnagiri, Salem District who was competent to issue community certificate for the Scheduled Tribe candidates at the relevant point of time had issued a certificate to the Petitioner on 2-7-73 certifying him as belong to Scheduled Tribe community. While so, during the year 1983, the Respondent/Management advised the Petitioner to submit another community certificate and the Petitioner also has produced community certificate in the prescribed form issued by the Block Development Officer, Kaveripattinam, who was the competent authority for issuance of the community certificate at that time. But, the Respondent has issued a charge memo dated 11-11-87 under Rule 14 of CCS (CCA) Rules, 1964 alleging that the Petitioner has exhibited lack of integrity and he got himself appointed as telephone operator in 1981 in Salem Telecom Engineer Division against Scheduled Tribe quota false declaring himself as belonging to Malayalee under Scheduled Tribe quota. Though the Petitioner denied charges, and Enquiry Officer was appointed to enquire into the charges. In the enquiry, the Petitioner's request for defence assistant was rejected. But, subsequently, the Enquiry Officer permitted the I Party to have assistance of Sri N.T. Rajan as his defence assistant. Further the Petitioner's request for documents were simply rejected by the Enquiry Officer on the 'ground of not relevant'. The Enquiry Officer was acting with his biased mind from the beginning towards the Petitioner by not allowing him to have assistance of defence assistant of his choice and supply of additional documents. When the Petitioner submitted a petition that the Enquiry Officer is biased against him, the Enquiry Officer ought to have been forwarded the same to Appellate Authority for his decision. But, the Enquiry Officer who is not the Disciplinary Authority nor Appellate authority has rejected his petition by an order dated 28-5-1992. Even without producing the original documents, xerox copy of the documents were marked in the enquiry. The request for examination of Tahsildar, who has issued some of the documents which are most important, has been rejected by the Enquiry Officer. Thus, the enquiry held by the Enquiry Officer is not proper and without following the principles of natural justice. The Petitioner was denied fair opportunity to cross examine the witnesses to prove his innocence and the Enquiry Officer with a biased mind submitted his findings against the Petitioner and the Disciplinary Authority has also without applying his mind has accepted the findings of the Enquiry Officer. The appeal preferred

by the Petitioner was rejected by the Appellate Authority. The petition filed by the Petitioner to Chief General Manager was without any reply. Therefore, the order passed by the Disciplinary Authority and the Appellate Authority are illegal, arbitrary and colourable exercise of power with a closed mind without affording reasonable and sufficient opportunity to the Petitioner. Hence, for all these reasons, the Petitioner prays that an award may be passed that the Order issued by the Telecom District Manager dated 25-2-2000 as illegal and *void ab initio* and set aside the same and direct the Respondent/Management to reinstate the Petitioner into service with all concomitant service and monetary benefits.

4. In these circumstances, the point for my consideration is :—

“To what relief the Petitioner is entitled ?”

Point :—

5. As already pointed out, even though the Respondent advocate has filed memo of appearance and several adjournments were given for filing counter statement, the Respondent has not filed any counter statement and therefore, the Respondent is set *ex parte* and an *ex parte* order is passed against the Respondent/Management. Since the Respondent has not filed any counter, nor produced any document to disprove the contention of the Petitioner. I find the contention of the Petitioner is correct and therefore, *ex parte* Award is passed against the Respondent/Management.

6. Therefore, I find the Petitioner is entitled to the claim of reinstatement with consequential relief. No costs.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th November, 2004.)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ब्लू डार्ट एविएशन लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 38/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-11012/47/98-आई. आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd March, 2005

S.O. 1455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/99) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Blue Dart Aviation Ltd. and their

workman, which was received by the Central Government on 22-3-2005.

[No. L-11012/47/98-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II NEW DELHI

Presiding Officer : R. N. RAI.

I. D. No. 38/99

IN THE MATTER OF :—

Shri Vinod Kumar Ahlawat,
S/o. Late Shri Charanjeet Singh,
R/o. A-2, Bindopur, Uttam Nagar,
New Delhi-59

Versus.

M/s. Blue Dart Aviation Limited,
Old Cargo Shed Near Terminal 1-A,
IGI Airport (Palam),
New Delhi-110037, Through its
Sr. Station Manager Shri Anand Nair.

AWARD

The Ministry of Labour by its letter No. L-11012/47/98-IR(C-I) Central Government dated 22-01-1999 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of M/s. Blue Dart Aviation Limited, New Delhi in terminating the services of Shri Vinod Ahlawat, Senior Airport Operation Staff w.e.f. 20-08-1997 is just fair and legal If not, to what relief the concerned workman is entitled and from what date?”

The case was put up for disposal in Lok Adalat today in view of the pursuance on the previous date 3rd March 2005. The parties have entered into compromise. Written compromise has been filed on the record. A cheque of Rs. 2,00,000/- (Rs. Two Lacs Only) has been paid to the workman applicant in full and final settlement of the dispute as such the dispute referred to has been decided in view of the compromise filed in the Lok Adalat.

No dispute Award is given.

Date: 17-03-2005.

R. N. RAI, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्डनैन्स फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी जी

आई टी/एल सी/आर/146/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/7/94-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/146/95) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Ordnance Factory and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/7/94-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/146/95

SHRI C. M. SINGH, Presiding Officer

Shri Doodh Nath Singh Secretary,
Hind Mazdoor Sabha 48/7,
New Type-I, Khamaria,
Jabalpur.

.....Union/Workman

VERSUS:

The Chairman,
Ordnance Factory Board,
10, Auckland, Calcutta.

The General Manager,
Ordnance Factory,
Khamaria, Jabalpur.

.....Management

AWARD

Passed on this 18th day of February, 2005

1. The Government of India, Ministry of Labour vide its Notification No. L-14012/7/94/IR(DU) dated 4-8-95 has referred the following dispute for adjudication by this tribunal:

“क्या प्रबंधन आर्डनेंस फैक्ट्री, खमरिया, जबलपुर (म.प्र.) आर्डनेंस फैक्ट्री बोर्ड, कलकत्ता के प्रबंधकों द्वारा श्री एच. एस. पाठक, टर्नर ग्रेड-2, को आदेश दिनांकित 28-05-1993 द्वारा उसके वेतन में दो लोवर स्टेजेस में कमी करने एवं दो वर्ष तक वार्षिक वेतन वृद्धि रोकने एवं उसके सेवा समाप्ति दिनांक 07-09-1991 से सेवा में बहाली दिनांक 16-06-1993 की बीच की अवधि को “अकार्य दिन” (डाइज्वाब) घोषित करने की कार्यवाही न्यायोचित है? यदि नहीं, तो संबंधित कर्मकार किस अनुतोष का हकदार?”

2. After the reference order was received, it was duly registered on 14-8-95 and notices were issued to the parties. The record reveals that on 12-1-96, Shri D. N. Singh appeared for the workman/Union and prayed for time to file the statement of claim. It further reveals that the court

gave him last chance for filing statement of claim. Thereafter both the parties appeared in the court on 16-2-96/19-3-96 and 19-4-96. But no statement of claim was filed on behalf of Union/workman. The record further reveals that the case was fixed for 23-5-96 and on this date though the Union/workman was represented but no statement of claim was filed on its behalf. Thereafter 15 dates were fixed for filling the statement of claim by workman/Union. Inspire of several dates fixed as mentioned above, the Union/workman failed to file the statement of claim. Therefore vide order dated 16-2-2005, this court observed that it appears from the circumstances that the Union/workman has no interest in the case and do not want to prosecute the reference.

3. Under the above circumstances, it is very clear that the workman has no interest in prosecuting the case. Therefore No dispute Award is passed without any order as to costs.

4. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी पी डब्ल्यू डी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 14/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-42012/125/98-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/99) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1 New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of CPWD and their workman, which was received by the Central Government on 22-03-2005.

[No. L-42012/125/98-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

SHRI S. S. BAL, Presiding Officer

I. D. No. 14/1999

Shri Rajnish Kumar Verma,
C/o CPWD Mazdoor Union, E-25,
(Old Quarter) Raja Bazar,
Baba Kharag Singh Marg,
New Delhi-

110001.

.....Workman

Versus

M/s. Executive Engineer,
Ghaziabad Centre Division, CPWD,
Hindon Air Field,
Ghaziabad (U.P.)-201001.

....Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/125/98-IR(D.U.) dated 30-11-98 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the Management of CPWD, Ghaziabad in terminating the services of Shri Rajnish Kumar Verma Ex-Sweeper is legal and justified? If not, to what relief is the workman entitled?"

2. In brief facts as culled from record which have given rise to the present reference are that the workman Shri Rajnish Kumar claims that he was initially engaged w.e.f. 1-1-97 for the work of beldar on daily rated basis for maintenance of work in Hindon Airfield, Ghaziabad, U.P. and worked continuously without any break. His services were terminated by the management on 14-1-98 without notice, notice pay, payment of gratuity, compensation as provided under the I.D. Act. It is further stated that in CPWD (respondent) the daily rated workers were designated as beldar/sweeper on muster roll, hand receipt and on daily rated work order and beldar on work charged in the regular pay scale of Rs. 2550—3200. The management is paying equal pay for equal work to the daily rated workers performing duties of beldar/sweeper. Temporary status was also given to such workers from 1-9-93 but the workman Shri Rajnish Kumar Verma was paid only minimum wages fixed by appropriate government from time to time. The management treated the Muster Roll Workers, hand receipt workers and the work order workers as daily rated workers vide order dated 18-8-97. The management did not pay wages in the time scale as the other daily rated workers performing some duties have been getting which amounts to discrimination and is in violation of Equal Remuneration Act, 1976 and the order of the management of CPWD. The management did not regularise services of the workman with a view to deny him the permanent and regular status to workman which is unfair labour practice as defined in Sixth Schedule Section 2(ra) of the I.D. Act. He further avers that Hon'ble Supreme Court in *Surinder Singh and others Vs. Engineer-in-Chief, CPWD* has directed CPWD to pay equal pay for equal work to all daily rated workers. Workman has been getting fixed wages of Rs. 1590 and was performing his duties under the direct control of the Junior Engineer, Asstt. Engineer and was attached with skilled workman on work charge category to render assistance by providing unskilled job for maintenance work of management.

Management treated Rajnish Kumar as a contractor with a view to deny him permanent status. He requested the Executive Engineer for grant of permanent status by way of regularization in service in time scale and for payment of equal pay for equal work from the date of his initial appointment but the Executive Engineer got annoyed with the demand of the workman Shri Rajnish Kumar Verma and his services were handed over w.e.f. 1-10-1997 to one Shri Bansal, w.e.f. 1-10-1997 and the contractor told him that he would be paid Rs. 1000 PM and thus his wages were reduced to less than minimum wages. His case was represented through the Mazdoor Union vide letter dated 12-1-98 Ghaziabad Hindon Airfield and copy to Superintending Engineer, Ghaziabad for change of service conditions to Executive Engineer, Superintending Engineer etc. etc. The management has no right to change without consultation of CPWD Union after receiving the letter. Thereafter the management terminated his services w.e.f. 14-1-98 after receipt of letter from Mazdoor Union. The workman claims that he completed more than 240 days of employment w.e.f. 1-1-97 till 14-1-98 and worked continuously without any break, that he is entitled to equal pay for equal work for the period in the pay scale of Rs. 2450-3200 and he is also entitled to be reinstated w.e.f. 14-1-98. He claims reinstatement with equal pay for equal work in the pay scale of Rs. 2450-3200 for the aforesaid period alongwith continuity of service.

3. The case has been contested by the respondent management by filing written statement wherein it is alleged that the workman failed to submit his claim statement or list of his demands within 15 days as required in the reference and his claim is liable to be dismissed. It is denied that the workman was engaged as beldar by the management. In fact the quotations for cleaning auditorium of the office were invited from various contractors and quotations furnished by Rajnish Kumar workman were found to be of lowest rate. Hence he was ordered to work under the management-respondent vide work order No. 1/AEI/GCSDI/96-97 dated 31-12-96. He was awarded the work by the order of Assistant Engineer Working under the management of respondent. The work of cleanliness of the auditorium was to be completed under the directions and instructions of Engineer-in-Chief and he was to make available chemicals and instruments and supply of workmen. It is denied that his services were terminated on 4-1-98 without notice or without payment as claimed. In fact he was awarded two separate contracts of cleaning the auditorium out of which one contract was awarded on 31-12-96 and the other was on 30-5-97. Second contract was of the duration of four months and came to end on 30-9-97. Both the works were completed on 30-9-97. It is also denied that he is entitled to gratuity compensation etc. as claimed. It is further stated that the S.C. Judgment

in Surinder Singh case is not applicable to the contracts and he is not entitled to the benefits of the same. It is also denied that the claimant that he was appointed as a skilled labour or that he was engaged to help some skilled worker to render assistance to some skilled worker for performance of unskilled duties, labour is absolutely wrong and denied. He was made payment through cheque on completion of the contracted work. It is denied that he was made to work as unskilled worker or that he performed the work of unskilled labour in the form of a contractor. It is also denied that he performed his duties or work of unskilled labour in the form of contractor or in the garb of contract or that he was exploited. Auditorium was got cleaned by Shri Rajnish Kumar by supplying a labour and by providing instrument and chemicals of cleanliness. He also got cleaned the office of enquiry and auditorium during the period w.e.f. 1-6-97 to 30-9-97 by supplying two labours/workers and requisite instrument and chemicals. In the first work he has supplied only one worker alongwith requisite equipments, and by no means and under no circumstances he was (Rajnish Kumar) not engaged as a labour/workman in the office. Auditorium was required to be cleaned during the period w.e.f. 1-1-97 to 31-5-97 and thereafter jharpooch and cleaning of auditorium office was required to be done for which the management had not sufficient resources. Hence it was deemed fit to get the work of cleaning auditorium and the office performed through contractor and as such two contracts were granted as mentioned. It is stated that the plea of the claimant that he was not regularized by the management by adopting unfair labour practice is devoid of any propriety and the practice of getting the work done on contract basis has been in vogue for decades in CPWD and there is no provision/rule or regulation for regularizing the service of a contractor as worker/labour. It is also denied that the claimant met Executive Engineer Narender Kumar or other officers for his regularization & he (Executive Engineer) got annoyed and gave the contract of 1-10-97 to Shri Bansal contract. However, the claimant has not furnished quotations of work in response to the offer of work in question and the same was entrusted to Shri bansal and the quotation furnished by Shri bansal was found to be of lowest rate amongst the offers received from the desires contractors and as such the work was entrusted to him who completed it. However, a letter of Shri Rajnish Kumar addressed to Executive Engineer was received through workers union/Mazdoor union in the office of the management and the higher officer was appraised of the correct position in reference to the said letter and no response was sent to the workers and no reply of the letter was sent to the workers union for the reasons namely that the facts mentioned in the letter were misleading and devoid of truth and as

per rules the workers union can indulge in correspondence with the management in respect of its member employee who is its member but not in respect of an employee who is not member of the Employee Union. The question whether the claimant contractor claim that he be treated as a worker/labourer can be looked into by the competent officer/authority and not by the workers union. Therefore, the claimant is not entitled to be reinstated as labour in the management and he is not entitled to equal pay for equal work, no to any compensation or any other relief claimed.

4. In the rejoinder the workman has denied the averments made in the written statement and reiterated his claim statement.

5. Management examined three witnesses in this case and case was fixed for workman evidence on 3-1-05 when the workman did not appear and he also did not appear for the last four hearings i.e. on 30-9-04, 15-12-04, 30-12-04 and on 3-1-05 on which date workman was proceeded against ex-parte and case was fixed for arguments for 20-1-05.

6. Arguments on behalf of the management heard. Perusal of record shows that workman claims that he was employed as beldar with the management of respondent CPWD and continuously worked for more than 240 days in a year during the year 97-98 but the management has denied that the claimant was engaged as beldar as claimed or that he is entitled to claims. The burden to prove that he was so engaged as beldar as claimed by him was on the claimant Shri Rajnish Kumar but he has not adduced any evidence and failed to prove his claim that he was engaged as beldar or he is entitled to reinstatement or compensation as claimed by him. On the contrary the management has claimed that he was only awarded two contracts for doing cleaning work of the auditorium and he was not engaged or worked as labourer and has in evidence examined three witness namely Shri Anil Kumar MW1, Shri Ram Kumar Bansal MW2 and Shri S. N. Gupta MW3 to support their case. There is no evidence or material on record to substantiate or prove the claims of the claimant Rajnish Kumar that he was ever engaged as beldar. Hence question of terminating his services as such does not arise. In any case the burden to prove that the termination of the services of Shri Rajnish Kumar Verma was illegal was on him and he has not been able to discharge the said burden and therefore the claimant is not entitled to any relief. The reference is answered accordingly. An Award is passed accordingly.

Dated : 18-3-2005

S. S. BAL, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 17/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-40012/315/99-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Postal Deptt. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-40012/315/99-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

REFERENCE NO. 17/2000

PARTIES : Employers in relation to the management of Superintendent of Post Office, Munger and their workman.

APPEARANCES:

On behalf of the workman : Ld. Advocate Mr. D. Mukherjee

On behalf of the management : Ld. Advocate Mr. H. Nath

State : Jharkhand

Industry : Deptt. of Post

Dated, Dhanbad, the 4th March, 2005

AWARD

The Govt of India, Ministry of Labour in exercise of powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-40012/315/99/IR(DU) dated, the 27th January, 2000.

SCHEDULE

“Whether the action of management of the Postal Department in terminating the services of Sh. Manoj

Kumar w.e.f. 29.5.99 is legal and justified? If not, what relief the workman is entitled to?”

2. The case of the concerned workman according to written statement submitted by him is as follows:—

He submitted that he started working as Extra departmental Stamp Vendor at Munger Fort Sub-Post Office, Fort Area Munger against a vacant post under verbal Order on 3-10-96 and in that capacity he worked continuously upto 28-5-1999.

He alleged that inspite of rendering continuous service management terminated him from the said service without giving any notice or payment of compensation.

He alleged that management illegally, arbitrarily and violating the principle of natural justice stopped him from work and for which he raised an industrial Dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The concerned workman accordingly, submitted his prayer to pass award directing the management to reinstate him in service setting aside his Order of termination dated 29.4.99.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his written statement.

They submitted that in the Post Office, Extra Departmental Stamp Vendors are appointed when it is felt that the scale of postage stamps exceeds Rs. 1,000/- and above and it is not possible for regular staff to perform the job as they have to perform other works also of the office. This system is prevalent throughout the country and such appointments are guided by Extra Departmental Agents (Conduct and service) Rules, 1964.

They submitted that all the E.D. employees/Extra Departmental Stamp Vendors like other regular employees of the postal Deptt. do not get their salary. They get only allowance as per rules and according to work load which varies from post office to post office. They submitted that as per terms and conditions, Extra Departmental Stamp Vendor can substitute a person selected by him to work at Post Office in his place and at his own risk and responsibility in case he goes on deputation on short term vacancy of postman and Group ‘D’ etc. During the period, the substituted man gets allowances and not pay as admissible as per rules. He has no legal status and he cannot be treated at par with a daily rated mazdoor or casual labour. In such a case the substituted man gets minimum allowances which the person substituting was getting. The services of such substituted person comes to an end the moment the person for whom he substituting resumes his duty or gets a promotion.

They submitted that the Department of Post, as per rules framed by the Govt. of India has to fill up its vacancies

through Employment Exchange under the Employment Exchange Act. They submitted that as per the revised rules appointment and service conditions for Extra Departmental Stamp Vendor requires minimum qualification and the selection is made on the basis of highest marks obtained by the persons amongst the candidates.

They submitted that services of Extra Departmental Agent is for a limited period not exceeding five hours and based on mutual contract. Accordingly the post of Extra Departmental Stamp Vendor, Munger Fort S.O. comes under the category of Extra Departmental Staff. On that post being permanent incumbent Sri Dhirendra Kumar had been working since long.

They submitted that whenever regular incumbent of the post of E.D. Agent proceeds on leave without allowances or goes to officiate against another posts, he gets himself relieved by a suitable substitute to be provided by him on his personal risk and responsibility as per E.D.A.'s (Conduct & Service) Rules 1964.

They submitted that Shri Birendra Kumar, E.D. Stamp Vendor, Munger Fort Sub-Office was ordered by the Supdt. of Post Offices, Munger vide his Memo No. A.I. ED deputation dated 1-10-96 to officiate as E.D. Stamp Vendor, Munger H.O. purely on temporary and adhoc basis providing substitute in his place on his personal risk and responsibility vice Sri Mannis Mondal E.D. Stamp Vendor Munger H.O. under put off duty.

They disclosed that as per the said order Birendra Kumar got himself relieved on 3-10-96 and he is in his place substituted Sri Manoj Kumar, i.e., the concerned workman to do his work from 3-10-96 and for this he was paid allowances. They submitted that in the meantime the permanent incumbent Sri Birendra Kumar was promoted to the post of postman cadre. Accordingly, he ceased to cover the risk and responsibility of the work of E.D. Stamps vendor of Munger Fort S.O. and as such continuance of the Substitute Sri Manoj Kumar, i.e., the concerned workman provided by Birendra Kumar came to an automatic end. Accordingly, the concerned workman was ordered to be terminated by the Sub-Divisional Inspector of Post Offices, South Sub-Division Munger, the appointing authority vide memo no. A-munger Fort, dt. 27-5-99 and Sri Murli Monohar E.D.B.P.M., Shrikarpur took over the charge as per order.

Subsequently for filling up the post of E.D. Stamp vendor Munger Fort, name of suitable candidates were called for from the employment exchange, Munger. After receiving the name of the sponsored candidates Sri Manoj Kumar S/o Ramavtar Pd. Yadav (not the concerned workman) was selected for this post according to rules. The concerned workman Manoj Kumar had also applied for the above post but he did not appear before the employer for verification of his certificates.

They submitted that since the workman who was working as a substitute, his service from 29-5-99 came to

an automatic and vide promotion of Birendra Kumar and as such the said order was legal and justified and for which he is not entitled to get any relief.

4. POINTS TO BE DECIDED

"Whether the action of the management of the Postal Department in terminating the services of Sh. Manoj Kumar w.e.f. 29-5-99 is legal and justified? If not, to what relief the workman is entitled?"

5. FINDING WITH REASONS

It transpires from the record that after filing written statement neither the concerned workman nor his sponsoring union appeared. They also did not consider to adduce evidence with a view to substantiate the claim of the concerned workman. In the circumstance management also declined to adduce any evidence.

As no material evidence is forthcoming either on the part of the sponsoring union or on the part of the management, considering the facts disclosed in the pleadings of both sides let it be considered if the claim of the concerned workman stands on any stable footing or not.

It is the specific contention of the sponsoring union that concerned workman under order of the management started working as Extra Departmental Stamp Vendor at Munger against a vacant post for the period from 3-10-96 to 28-5-99 continuously. It is their further allegation that management without considering his claim for regularisation stopped him from work.

On the contrary contention of the management is that question of appointment of Extra Departmental Stamp Vendors arises if sale of postage stamps exceeds Rs. 1000/- per day as per guide line of Extra Departmental Agents (Conduct & Service) Rules, 1964. More over as per rules they are paid allowances only according to work load which varies from post office to post office.

It is their further contention that as per terms and conditions "Extra Departmental Stamps Vendor can substitute a person selected by him to work at post office in his place and at his own risks and responsibility in case he goes on deputation on short term vacancy of postman and group 'D' etc. During this period the substituted man gets allowances and not pay as admissible as per rules.

It is their further contention that one Birendra Kumar was engaged at Munger Fort S.O. as E.D. Stamp Vendor. They submitted that by order of the Superintendent of post offices as said Birendra Kumar joined Munger H.O. to officiate as E.D. Stamps Vendor purely on temporary basis on 3-10-96 and he in his place substituted the concerned workman to do his work with effect from the same date and for which he was paid allowance as admissible as per rules thereafter as said Birendra Kumar got his promotion to the post of postman cadre, the risk which he covered for the

concerned workman was ceased and automatically he was stopped from his work.

In the circumstances, as per rules, to fill up the post of E.D. Stamp Vendor they called name of suitable candidates from the Employment Exchange. After sponsoring the name by the employment exchange they arranged for test and concerned workman was also asked to appear in the said test. But as he did not appear they had to hold test of the candidate sponsored by the Employment Exchange and one Manoj Kumar S/o Ram Avatar Pd. Yadav was selected for that post as per rules.

Therefore, considering the facts discussed above it is seen that the post of E.D. Stamp Vendor is not a permanent post. A person who is selected for the said post is allowed only allowances and not wages as per rules. The concerned workman was allowed to work as E.D. Stamp Vendor when he was sponsored by Birendra Kumar. As per norms the risk factor rested with said Birendra Kumar. Management approved the name of the concerned workman and allowed him to work as E.D. Stamp Vendor in place of said Birendra Kumar. As said Birendra Kumar got his promotion as postman the said risk taken by him was ceased. Automatically the concerned workman lost his job.

No material evidence is forthcoming to show that concerned workman being a regular staff was appointed by the management. He was only allowed to work seeing substitute of Birendra Kumar as his name was sponsored by him. The entire risk and responsibility for the work of the concerned workman was rest with Birendra Kumar.

After getting promotion of Birendra Kumar as the said post of E.D. Stamp Vendor fell vacant management gave opportunity to the concerned to appear in the test along with other candidates where names were sponsored by the Employment Exchange. No satisfactory explanation is coming on the part of the concerned workman why he did not appear in the test. There is no evidence to show that management acted arbitrarily in not selecting the concerned workman to the post of E.D. Stamp Vendor whom the said post fell vacant. It is seen that E.D. (Conduct & Service) Rules 1964 is applicable in all matters of E.D. Stamp Vendor including their selection. There is no evidence to the effect that contrary to the guide line of the said Rules management declined to appoint the concerned workman as E.D. Stamp Vendor. In course of hearing I have failed to find any illegality done by the management in not considering his claim. On the contrary it is seen that in spite of giving opportunity he has failed to appear before the test for his selection as E.D. Stamp Vendor.

In view of the facts and circumstances discussed above I hold that management did not commit any illegality in refusing the claim of the concerned workman and for which I hold that he is not entitled to get any relief.

In the result the following award is rendered :

"That the action of the management of the Postal department in terminating the service of Sh. Manoj Kumar w.e.f. 29-5-99 is legal, valid and justified. Accordingly, he is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 73/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-40012/383/99-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 73/2000) of the Central Government Industrial Tribunal-cum-Labour Court Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Telecom. Deptt. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-40012/383/99-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. I.D. 73/2000

Sangat Ram son of Sham Lal C/o. N. K. Zeet. President Telecom Labour Union, Mohalla Hari Nagar, Lal Singh Basti Raod, Bhatinda.

...Applicant

Versus

The General Manager, Telecom, Bhatinda (Punjab.)

...Respondent

REPRESENTATIVE

For the Workman : Shri N. K. Zeet.

For the Management : Shri G. C. Babbar.

AWARD

Passed on 18-2-2005

The Central Govt. Ministry of Labour vide notification No. L-40012/383/99/IR(DU) Dated 9th February, 2000

has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of General Manager, Telecom, Bhatinda in terminating the services of Shri Sangat Ram son of Shri Sham Lal is legal and justified ? If not, to what relief the workman is entitled and from what date ?”

1. On the request of both the parties case taken up in Lok Adalat for settlement/disposal. Statement of A/R of workman recorded on SA. The representative of the workman made a statement to withdraw the present reference in the Lok Adalat as the case has been settled. In view of the statement of the rep. of the workman and management having no objection the reference is returned to Central Govt. as withdrawn. Central Govt. be informed File be consigned to record.

Announced.

18-2-2005

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1460.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 62/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-40012/76/96-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 62/98) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 22-03-2005.

[No. L-40012/76/96-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, RAJENDRA BHAWAN,
GROUND FLOOR, RAJENDRA PLACE
NEW DELHI**

Presiding Officer : R. N. Rai.

I. D. No. 62/98

IN THE MATTER OF :—

Smt. Promila.

W/o Sh. Puran Chand.

C/o MTNL Shramki Union, 6, CWC

Lodhi Colony, New Delhi-3

Versus

M/s. Post Master General Delhi,
Meghdoot Bhawan,
New Delhi-5.

AWARD

The Ministry of Labour by its letter No. L-40012/76/96 IR(DU) Central Government Dt. 2-3-1998 has referred the following point for adjudication.

The point runs as hereinafter :—

“Whether the action of the management of Department of Post in terminating the services of Smt. Promila, waterman w.e.f. 15-8-94 is legal and justified ? If not what relief the workman is entitled to?”

The claimant has filed statement of claim. In the statement of claim, it has been stated that the above said workman was working with the management as waterman w.e.f. 20-5-93 against regular work and was getting pay and allowances according to other employees. That the workman is very active member of union and was demanding appointment letter identity card uniforms leaves bonus and other legal benefits and participating in union activities so the officer became very arrogant annoyed and terminated the services of the workman without any notice and reason on 15-8-94 while junior and newly appointed workmen Hari Om, Satyavan, Rajarorain and others were regularised.

That the management has not paid the 80 hours OTA with effect from May to August, 1993. That the workman is belonging to scheduled caste community. She is 70% permanent disablement. That the workman has submitted several request/prayer for reinstatement in service with full back wages continuity of service and OTA but the management didn't care even few as 20-6-94, 11-8-94 to CPMG Sh. Sukh Ram, Union Minister of communication. 12 Safdarjung Lane vide registered AD letter No. 520 dated 30-12-94 but nothing has been done till today.

That the workman has raised dispute before the ALC(C) and it was not settled and referred in your court for adjudication and necessary direction. That the above action of the management is unlawful, unjust, *mala fide*, revengeful against weaker section of the woman. It is against the principal of natural justice of law. The workman is entitled for full legal benefits.

The management has filed written statement. In the written statement, it has been stated that the claim petition framed and filed is not maintainable. That the claim petition is not maintainable as there arises no cause of action against the management and in the favour of the claimant as the claimant was engaged as part time seasonal waterman on purely temporary and *ad hoc* basis for a period of 89 days

in 1993 and 88 days in 1994, so the claimant does not come under the definition of workman as per the Industrial Dispute Act.

That the present reference is bad in law, without application of mind and in a stereo type manner hence liable to be dismissed.

That the petition is not maintainable as the claimant has not come with clean hands and concocted the material facts before the Hon'ble Tribunal, the claim appears to be less substantiated with facts. Hence the claim petition deserves dismissal being a misplaced re-supposition. That the respondents/management are not an Industry as defined in the act as such the claim petition liable to be dismissed.

That the above named workman was working with the department as P.T. Seasonal waterman w.e.f. 20-05-1993 for 89 days, rest of the para is wrong and denied. It is pertinent to mention here that she was not appointed against the regular nature of work and she was not getting pay and allowances according to the waterman on regular basis.

It is submitted that issue of any appointment letter, Identity card, uniform, leaves, bonus and other legal benefits were not admissible to such workman appointed under the conditions referred to this office memo No. B-19/p.t.s.w/93 dated 19-5-93 and 18-5-94. Further it is vehemently denied that the workman whose name as mentioned in the para is still working in this division.

It is submitted that the question as paying OTA for the period mentioned in the claim petition does not arise because no orders of OTA is given to the workman working on hourly basis/vouchers basis.

It is submitted that no such request of the said workman has been received in this office. Therefore the request of turning down the several requests does not arise. It is submitted that the action of the management what so ever taken in this case is under the rules and regulations of the department.

The workman applicant has not filed any rejoinder. No affidavit from the side of the workman applicant has been filed. It has been stated by the management that she was a seasonal worker. She has not completed 240 days so she is not entitled to be regularised or reinstated.

Notices has been sent to the workman applicant again and again but it has been received back with the endorsement that none of the men was residing there as such there has been proper service of notices despite that the workman applicant has not turned up in filing affidavit in support of her claim statement. It is the duty of the workman applicant to prove his case and the burden is on her to prove that she has worked for 240 days but she has miserably failed to prove that she has worked for 240 days.

In the circumstances she is not entitled to get any relief as prayed for.

The reference is replied thus :—

The action of the management of the Department of Post in terminating the services of Smt. promila, Waterman w.e.f. 15-08-1994 is legal and justified. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly.

Dated : 15-03-2005.

R. N. RAI, Presiding Officer.

नई दिल्ली, 22 मार्च, 2005

का.आ. 1461.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 38/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-40025/1/2005-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Deptt. of Post and their workman, which was received by the Central Government on 22-03-2005.

[No. L-40025/1/2005-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, B.Sc., LL.B., Presiding Officer

Dated the 10th day of January, 2005

INDUSTRIAL DISPUTE NO. 38/2002

(Old I.D. No. 6/2001 transferred from Industrial Tribunal—II, Hyderabad)

BETWEEN:

Sri Md. Ahmed Pasha,

H. No. 3-2-31,

Shantinagar,

Domakal—506 381.

....Petitioner

AND

1. The Superintendent of Post Office,
Warangal Division—II,
Warangal—506 002.
2. The Sub Divisional Inspector (Posts),
D/o Posts, Mahaboobabad—506 001.....Respondents

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar, K. Udaya
Sree, P. Sudheer
Rao & D. Madhsudan,
Advocates

For the Respondent : Sri L. Jalandhar Reddy,
Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-40012/437/2000-IR(DU) dated 18-1-2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal-II, Hyderabad between the management of Post Offices and their workman which has been transferred to this Tribunal in view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(CII) dated 18-10-2001 bearing No. 6/2001. The reference is,

SCHEDULE

“Whether the action of the Superintendent of Post Offices, Warangal Division. II, Warangal and Sub Divisional Inspector (Posts), Mahaboobabad in terminating the services of Sri Md. Ahmed Pasha, Ex-EDMC, Ammapalem, a/w Domakal is justified? If not, to what relief the workman is entitled?”

The reference is renumbered in this Tribunal as I.D. No. 38/2002 and notices were issued to the parties.

2. The brief facts as stated in the claim statement are : That the Petitioner's father Late Mohd. Sarwar was working as EDMC in Ammapalem. In the year 1996 he was affected with T. B. and Hernia, Therefore he was unable to discharge his duties and he made an application requesting for discharge medical invalidation and also requested to provide employment to his son, namely Md. Pasha. That vide proceedings dated 10-5-96 the Divisional Inspector, Mahaboobabad directed medical officer to examine the father of the Petitioner. Thereafter the services of the father of Petitioner were terminated vide proceedings dated 11-7-96. It is submitted that before medical invalidation the Petitioner's father has requested for providing job to the Petitioner herein. No action was taken. Ultimately in pursuance of the representation of the Petition the Divisional Inspector (Postal) addressed letter to the Petitioner on 2-1-96 directing him to produce IX class memo marks affidavit in respect of providing employment of father of the Petitioner and declaration. Thereafter the Petitioner has submitted a joint affidavit of his father and mother declaring that he is son for all the purposes including employment and other religious purposes. The recruiting

authority after satisfying themselves appointed the Petitioner provisionally EDMC B.O. vide proceedings dated 16-8-96 instead of appointing him on regular basis. He came to know in the month of October, 1997 that outsider is being considered for EDMC post ignoring the Petitioner. The Respondent instead of considering him appointed Sri Krishna and the Petitioner's services were terminated w.e.f. 31-10-97. The said termination is illegal and unjust. He submitted that Director General, Department of Posts, New Delhi issued guidelines in respect of appointment of dependents of Government Servant who died in harness or who is retired on medical grounds as per rule 38 of Pension Rules 1972. As per the scheme of the Central Government, widow, son, daughter, adopted son, adopted daughter of Government servant who dies in harness or who is retired on medical grounds under rule 38 of Pension Rules 1972 is eligible for consideration for appointment on compassionate grounds. That his father expired on 11-11-97 and his mother also expired on 17-3-2000. Now the Petitioner has to look after his sister and two brothers. It is submitted that the Petitioner was adopted son of Late Sarwar and the adoption was done according to the procedure and as per law. Mr. Sarwar has given the declaration on 9-11-1994 that on the event of his death, all his benefits from the Department should be given to his adopted son Md. Ahmed Pasha. Hence, the termination of service is illegal and the termination is shockingly disproportionate and unjustified.

3. A counter was filed stating that the Respondents are disputing relationship of the Petitioner with the said Late Md. Sarwar, his father. No doubt he was appointed but not specifically recruiting authority on the basis of affidavit declaration and as nominee of Md. Sarwar. The Petitioner applied for regularization of his service under relaxation of recruitment rules of compassionate grounds. The competent authority has considered his application and found that the person who was discharged on medical grounds pre-maturely may not come under purview of provisions of compassionate appointment rules. The Department cannot regularize the services of a person without following the rules laid down i.e., issuing of notification, calling of applications, making of final selections. In this case no application was called till the Petitioner's case for compassionate appointment was closed. That the Petitioner is not naturally born son of Mr. Sarwar, there is adoption in the eye of muslim law. The compassionate appointment rules are applicable to both the Departmental and Extra-departmental employees when they die in harness and not to those who were discharged on medical grounds and Mr. Sarwar who was discharged 12 years ahead of his normal retirement, the alleged declaration dated 9-11-94 of Md. Sarwar does not confer any right upon the Petitioner under law for his appointment. That the Hon'ble Supreme Court of India held that the Department of Posts is not an industry. Hence, the petition may be dismissed.

4. The Petitioner examined himself as WW1 and deposed all the facts what are stated in the petition, in the chief examination. That he worked for 240 days continuously without any break and therefore, the termination is illegal, arbitrary and hence, he may be reinstated with all consequential benefits. In the further chief examination he marked Ex. W1 which is the invalidation certificate of his father. Ex. W2 is termination letter of his father. Ex. W3 is addressed to the Petitioner. Ex. W4 is a letter dated 30-9-97 asking the Petitioner to furnish the Educational qualification. Ex. W5 is the letter from Respondent that he has sent income certificate instead of property certificate. Ex. W6 is office memorandum. Ex. W7 is joint affidavit by natural parents dated 29-11-94. Ex. W9 is declaration given by his adopted father dated 9-11-94. Ex. W10 is representation dated 17-7-96 given by him. Ex. W11 is another representation dated 17-7-96. Ex. W12 is termination order dated 11-11-97. Ex. W13 is the service particulars. Ex. W14 is letter dated 24-10-97 by Respondent to his father. Ex. W15 is addressed to organizing secretary, congress committee. Ex. W16 is declaration given by his neighbours. In the cross examination he deposed that he was adopted when he was 10 years of age. He denied that he is not adopted by Md. Sarwar and all documents are created and he is not entitled for any relief.

5. Sri G. Srinivasa Rao examined himself and deposed to the facts as stated in the counter. That the Petitioner was terminated from 13-10-97 and one Krishna has been selected after notification. That this court has no jurisdiction. In the cross examination he deposed, he marked certain documents in further chief examination, he deposed, that the Petitioner has passed the SSC. He said that he can not say whether the Petitioner has worked for 240 days or not, it is true that the qualification of the Petitioner and M.A. Krishna are same. He further admitted that the Petitioner was appointed on provisional basis for one year two months continuously.

6. It is argued by the Learned Counsel for the petitioner that he was appointed on compassionate grounds and any way having worked for more than 240 days continuously his termination is violative of Sec. 25F of the Industrial Disputes Act, 1947. That whether he has been given one month notice or pay in lieu thereof or retrenchment compensation. Hence, he may be reinstated with back wages.

7. The Learned Counsel for the Respondent argued that as per the norms the petitioner is not entitled for compassionate appointment and hence, he was dismissed. In his appointment only it was written that he will be terminated at any time. Therefore, the reference may be answered against the petitioner.

8. It is apparently seen that Petitioner was appointed as the son of Md. Sarwar. It is not necessary to go into the question whether the adoption is feasible under Muslim law or not. Nor is it necessary to go into that question now.

Suffice it to say that he has worked for more than 240 days as per Ex. W13 he worked from 6-7-96 to 31-7-97 and on 31-7-97 he was asked to go and appointed Mr. A. Krishna in his place. Be that may be so. Naturally when he was interviewed and all that and according to MW1 Mr. A. Krishna was appointed after going through all the regular process because his marks were more, he was appointed. The contention that the Post Office is not an industry is not correct in view of the Judgement in Bangalore Water Supply case, between the General Manager, Telecom and A. Srinivasa Rao, in 1998 (1) LLJ page 255 Supreme Court cases, wherein it was held that, "Telecom/Postal department is an 'industry'. Hence, I hold that whatever be the conditions in the appointment letter the Industrial Disputes Act, 1947 gives the Petitioner certain rights when he has worked for more than 240 days. Hence, his termination dated 31-10-97 is not correct as he was not given the notice or pay in lieu thereof retrenchment compensation. Hence, he shall be reinstated within 30 days after publication of this award on his last drawn pay failing which he will be entitled to the wages.

Award passed. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 10th day of January, 2005.

E. ISMAIL, Presiding Officer.

Appendix of evidence

Witness examined for the Petitioner	Witness examined for the Respondent :
WW1 : Sri Md. Ahmed Pasha	MW1 : Sri G. Srinivasa Rao

Documents marked for the Petitioner

Ex. W1	: Copy of 1r. from medical officer dt. 10-5-96
Ex. W2	: Copy of termination letter of Petitioner's father dt. 4-7-96
Ex. W3	: Copy of 1r. from Department dt. 2-10-96
Ex. W4	: Copy of 1r. from Department to submit originals
Ex. W5	: Copy of 1r. from Department to submit property certificate
Ex. W6	: Copy of office memorandum
Ex. W7	: Joint affidavit dt. 29-11-94
Ex. W8	: Affidavit of WW1's father dt. 29-11-94
Ex. W9	: Declaration given by WW1's father dt. 9-11-94
Ex. W10	: Copy of representation dt. 17-7-96
Ex. W11	: Copy of representation dt. 17-7-96
Ex. W12	: Copy of termination letter dt. 11-11-97
Ex. W13	: Service particulars of Petitioner
Ex. W14	: Copy of 1r. from Department dt. 24-10-97

- Ex. W15 : Copy of Ir. from Asst. Post Master General
 Ex. W16 : Declaration given by neighbour dt. 30-3-2000

Documents marked for the Respondent

- Ex. M1 : Requisition Ir. of Md. Sarwar dt. 6-3-96
 Ex. M2 : Copy of Ir. to Medical Board from Respondents dt. 10-5-96
 Ex. M3 : Medical Report forwarding letter dt. 11-6-96
 Ex. M4 : Medical Board Report dt. 6-6-96
 Ex. M5 : Md. Sarwar's service Termination letter dt. 4-7-96
 Ex. M6 : Copy of provisional appointment Ir. of WW1 dt. 16-8-96
 Ex. M7 : Rules for compassionate appointment
 Ex. M8 : Petitioner's termination letter
 Ex. M9 : Copy of notification dt. 28-8-97
 Ex. M10 : Application of the Petitioner dt. 22-9-97
 Ex. M11 : Attested copy of SSC memo of WW1
 Ex. M12 : Attested copy of SSC memo of A. Krishna
 Ex. M13 : Tabulation form of applicants applied for the EDMC post
 Ex. M14 : Office copy of Appointment Ir. of Krishna dt. 5-8-98
 Ex. M15 : Ir. No. PF/EDMC/Ammapalem/97 dt. 8-10-97 rejecting

WW1's representation.

नई दिल्ली, 22 मार्च, 2005

का.आ. 1462.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-72/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-40025/2/2005-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-72/2002) of the Central Government Industrial Tribunal-cum-Labour Court Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-40025/2/2005-IR (DU)]

KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
 AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, B.Sc., LL.B., Presiding Officer

Dated the 27th day of December, 2004

INDUSTRIAL DISPUTE L.C.I.D. No. 72/2002

BETWEEN:

Sri N. Srinivas Reddy,
 R/o Moolangoor Post,
 Shankar Patnam Mandal,
 Karimnagar District.Petitioner

AND

1. The Sub Divisional Officer,
 Telecom—Karimnagar,
 Karimnagar District.
2. The Telecom District Manager
 Karimnagar,
 Karimnagar District.
3. The Telecom District Engineer,
 Karimnagar,
 Karimnagar District.Respondents

APPEARANCES:

- For the Petitioner : Sri K. Srinivasa Rao
 Advocate
 For the Respondent : M/s. Ch. Indrasena Reddy
 & D. Vilas, Advocates.

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and notices were issued to the parties concerned.

2. The brief facts as mentioned in the petition are: that the Petitioner joined the Respondent organization as casual mazdoor in the year 1985. Thereafter the Petitioner was granted temporary status w.e.f. 1-10-1989 vide memo dated 17-8-91 and the Petitioner worked in the said post without any remark and complaint. The Petitioner submits that he has attended the duties regularly without any remarks till 1992 and put in hard work with sincerity. While he was working as temporary status mazdoor he fell sick and suffering from mental depression and he could not attend duties from 10-5-92. He recovered from sickness while he was returning from Yadagirigutta after prayers. he met with motor accident on 17-10-94 and he was hospitalized and undergone treatment by Government

Headquarters Hospital and thereafter he was treated at Osmania Hospital upto 11-8-97 which was beyond his control. He reported for duty with fitness certificates but he was not allowed to perform his duties. The Petitioner had approached the Respondent on 13-8-97 through representation duly enclosing medical and fitness certificates by requesting to reinstate him into service. But the Respondent rejected the request of the Petitioner *vide* their letter dated 16-4-98 issued by the 3rd Respondent. This Petitioner submits that the action of the Respondent in rejecting his representation is illegal, unjust and arbitrary and contrary to law. He filed OA No. 320/99 before the Hon'ble Central Administrative Tribunal, Hyderabad. The Petitioner submits that Hon'ble Central Administrative Tribunal was pleased to pass orders dated 2-3-99 directing the Respondent to engage the petitioner as casual mazdoor if there is need for engaging casual mazdoors from open market. Thereafter the Petitioner submitted report duly enclosing the order of the Hon'ble Central Administrative Tribunal. But without considering the facts and circumstances of the case the Respondent rejected the representation of the Petitioner by displaying the orders of the Hon'ble tribunal is illegal and arbitrary. That in spite of obeying the Hon'ble Central Administrative Tribunal engaged mazdoors namely, Sri B. Bhargawa Reddy and Sri G. Ravinder Reddy at the telecom Sub Divisional Office Karimnagar. Therefore, it is prayed that this Hon'ble Court may be pleased to declare that the action of the respondent in rejecting the Petitioner's application *vide* proceedings dated 10-9-99 as illegal, unjust, contrary to law, arbitrary and in violation of principles of natural justice and to direct the Respondents to reinstate the Petitioner into service with all consequential benefits.

3. A counter was filed stating that the Petitioner having approached Hon'ble Central Administrative Tribunal, for the same relief now approached this tribunal. The Petitioner was engaged as casual mazdoor in the year 1985 in Karimnagar Telecom Sub-Division and was conferred temporary status from 1-10-89 and in terms of temporary status scheme. He stopped coming from may, 1992. The records having been weeded out due to efflux of time and the fact if any, enquiry has been contemplated under the scheme cannot be verified at this stage. That the Petitioner approached with a representation dated 13-8-97 for his reengagement as casual mazdoor. It was mentioned in the representation that he had mental depression. Thereafter he met with an accident. The representation of the Petitioner was rejected on 16-4-98 by considering it as abandonment of service.

4. The Hon'ble Central Administrative Tribunal disposed the OA No. 320/99 on 2-3-99 directing the Respondents to re-engage the Petitioner if there is work in preference to freshers from open market. The Petitioner cannot claim any benefit of his past services including restoration of temporary status. The orders were

considered. But he could not be provided work in view of ban. Hence, the Petition is not maintainable. That all these things have been gone into by the Hon'ble Central Administrative Tribunal. It is not for this court to reopen the closed case in view of the judgement clarified by the Hon'ble supreme court of India, that the engagement of Sri G. Ravinder Reddy and Sri K. Bhagwan Reddy was done under specific orders of the Hon'ble High Court of A.P. in writ petition No. 21585/99 and Hon'ble Central Administrative Tribunal in OA No. 1345/99. Hence, the claim of the petitioner is misconceived, frivolous and vexituous and deserves to be dismissed with costs.

5. The Petitioner deposed as WWI and stated the same things as stated in the petition. In the cross examination he deposed that as the Karimnagar Telecom District refused to engage him in pursuance of OA No. 320/99, on 10-9-99 he has approached this Court. After refusing him on 10-9-99, 33 persons were taken as casual labourers in October, 1999. They are not working under contractor but as casual labourers on muster rolls. He has not filed any written representation bringing the fact to the notice of the Respondent. He denied that no casual labourers were employed after the orders of Hon'ble Central Administrative Tribunal dated 2-3-99 on OA No. 320/99.

6. Sri T. Ganga Rao, Sub Divisional Officer Telecom, Karimnagar admitted that the Petitioner was engaged as casual mazdoor and then he stopped coming. That after the orders of the Hon'ble Central Administrative Tribunal his case was considered but he could not be provided work in view of the ban. In view of the specific orders of the Hon'ble High Court of A.P. in WPMP No. 27063/99 in WP No. 21585/99 and in OA No. 1345/99, Sri G. Ravinder Reddy and K. Bhagawan Reddy were engaged as casual mazdoors afresh. That the order acts as *res judicata*. In the cross examination he deposed that he does not know about the accident. But he submitted medical certificate with regard to accident and mental depression. In the month of August, 1997 he approached the Respondent along with fitness certificate to reinstate him and the same letter was rejected by the Respondent. But he was absent for period exceeding 5 years and it was treated as abandonment of service and therefore a lenient view may be taken and he may be reinstated.

7. The Learned Counsel for the Petitioner argued that if a person is absent and if so shows sufficient cause than he may be reinstated. Here he has got mental depression. And he also met with unfortunate accident. He also filed medical certificates. But it was not considered and it was treated as abandonment of service and therefore a lenient view may be taken and he may be reinstated.

8. The learned Counsel for the Respondent submits that having approached the Hon'ble Central Administrative Tribunal through OA No. 320/99 he is bound by those orders and he cannot again reagitate the same before this Court. Hence, the petition may be dismissed.

9. It may be seen that the Hon'ble Central Administrative Tribunal in OA No. 320/99 has stated that he became fit for resuming duties till 15-10-94. If so he could have immediately attended the office. But here his case is that while coming he met with an accident and to that effect there is a medical certificate. Perhaps it was not brought to the notice of the Hon'ble Central Administrative Tribunal. But whatever be there for the same facts he has chosen to go to a superior forum than this and now he can not ask me to decide the same once again when once the Hon'ble Central Administrative Tribunal had decided. Hence, I reiterate the same and pass the award in same terms as the Hon'ble Central Administrative Tribunal had given. Hence an award is passed as follows: "the Respondent No.2 should engage the petitioner as casual mazdoor if there is need for engaging casual mazdoors from open market. The Petitioner cannot claim any benefits of his past services. If engaged in pursuance of the directions given now".

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 27th day of December, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witness examined for the Petitioner	Witness examined for the Respondent :
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WW1 : N. Srinivas Reddy MW1 : Sri T. Ganga Rao

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 22 मार्च, 2005

का.आ. 1463.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेवल डकयार्ड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-118/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14025/1/2005-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-118/2004) of the Central Government Industrial Tribunal/Labour Court Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Naval Dockyard and their workman, which was received by the Central Government on 22-03-2005.

[No. L-14025/1/2005-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, B.Sc., LL.B.,
Presiding Officer

Dated the 7th day of February, 2005

INDUSTRIAL DISPUTE L.C.I.D. NO.118/2004

(Old I.D. No. 34/2002 Transferred from Industrial Tribunal cum-Labour Court, Visakhapatnam)

BETWEEN

Sri A. Shankar Rao,
R/o D. No.3-134, Sujathanagar, Chinamusiliwada,
Pendurthi Mandalam - 530024 ...Petitioner

AND

1. The Admiral Superintendent.
(Disciplinary Authority),
Naval Dockyard,
Visakhapatnam.

2. The F.O.C. In C.,
Eastern Naval Command.
(Appellate Authority),
Naval Base,
Visakhapatnam.

....Respondents

APPEARANCES:

For the Petitioner : Sri K. Balakrishna,
Advocate.

For the Respondent : Sri D.Ramesh, Advocate

AWARD

This is a case taken under Sec.2 A (2) of the I.D. Act, 1947 by the Industrial Tribunal cum Labour Court, Visakhapatnam in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P.No.8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR (C-II) dated 18-10-2001 bearing I.D. No. 34/2002 and renumbered in this Court as L.C.I.D.No. 118/2004.

2. The brief averments as averred in the claim petition are: that the Petitioner was appointed on 3-4-79 as S.K., Brush Painter under duel selection procedure and has been working continuously. At the time of appointment he was not appointed on any reservation nor he was informed so. He was promoted by virtue of his seniority as HSK-II by the time his services has been terminated by way of dismissal. In the year 1997 for the first time he was subjected to departmental enquiry on the ground that of verification it was found that his social status certificate was false and subsequently an inquiry was held in derogation of the haul-mark of the principles of natural justice and begot not full opportunity either to explain or to rebut the allegations made against him. That on the foot of the enquiry report an order dismissing the services of the Petitioner had been passed on 4-6-2001. Subsequently, the Petitioner carried an application to the Hon'ble Central Administrative Tribunal which was pleased to dismiss the application on the ground of prematurity. The order of dismissal has not been served on the Petitioner. However, a copy was made available to him. Hence, he may be reinstated with back wages and all attendant benefits.

3. A counter was filed stating that the District Collector, Visakhapatnam report R. C. No.5337/95, TW dated 25-6-97 established that applicant does not belong to "Yanadi" caste a scheduled tribe belong to some other caste and he got his bogus "Yanadi" castes certificate from the erstwhile Tahsildar, S. Kota of Vizianagaram District. The MRO, Pendurthi report Dis.No. 198/96C dated 21/1/1996, further establishes that the applicant belongs to telaga cast which is a forward community and he does not belong to scheduled tribe. therefore, the Article-1 of the charge that the appellant submitted a false/fake/forged scheduled tribe certificate No.L.D.is.No.256 dated 15-2-1977 which is proved. It is true that the Petitioner was appointed as skilled brush painter w.e.f. 3-4-1979. He was appointed on the ST caste certificate purportedly issued by the Tahsildar, S. Kota. That a complaint was received on 12-2-94 from A.P.S.T. Welfare association, Visakhapatnam that petitioner does not belong to SC Yanadi Caste. The Petitioner did not

attend the enquiry. The enquiry authority MRO held that the petitioner does not belong to Yanadi Scheduled Tribe and the certificate filed by him is false. Hence, the petitioner may be dismissed.

4. In 2003 itself it was conceded by the Petitioner's counsel that the domestic enquiry is validly conducted. Hence, arguments were advanced on the same lines by the learned counsel for the Petitioner and the Respondents.

5. The learned counsel for the Petitioner argued that in 1999 Supreme court cases (L&S) page 613 where in the facts of the case were that the applicant Gulzar Singh was issued caste certificate on 10-10-98 stating that the appellant belongs to Majbhhi Sikh caste which is a recognized Scheduled Caste. The grievance of the appellant was restricted to the decision communicated to him by the Sub Divisional Magistrate, Gurdaspur dated 3-6-97 whereby certificate No.9336 dated 10-10-1998 was cancelled. The said certificate was cancelled due to an enquiry whereit was found that the petitioner belongs to Christian community when it was challenged. High Court dismissed it. Their Lordships of the Supreme Court held that from the facts on record prior to the cancellation of the Scheduled Caste certificate no show-cause notice was given to the appellant. Their Lordships set aside the judgement of the Hon'ble High Court dated 3-6-97 leaving it to the Respondent to take action in accordance with law. He also cited a Judgement reported in 1997 Supreme Court cases (L&S) 1825 wherein it was held that caste certificates issued up to 11-11-89 by the Tahasildar are valid. He also relied on a judgement of Hon'ble High Court reported in 1999 (3) ALT page 48 where in his Lordships held that in submitted reports of the MRO and Sub-Collector is in violation of principles of natural justice and remitted back the matter to Joint-Collector. He also relied on 1996 Lab I.C. page 1890 wherein person was dismissed from service where he was employee of the Canara Bank. Several years later it was held that the petitioner did not belong to Scheduled Caste but Ramakshatriya caste. Hence, an enquiry was conducted and Petitioner dismissed. His Lordship held unless revocation of caste certificate is effected by competent authority employee cannot be dismissed from service on the ground of misrepresentation. His Lordship observed the powers to issue caste certificate and the power to revoke is limited to the designated authorities and that power could not be exercised by the enquiry authority appointed by the employer in case the employee is found to have secured employment by misrepresenting his caste. the finding recorded by the Enquiry Officer that employee does not belong to reserved category would have the effect of overruling the caste certificate which was issued by the competent authority or in other words of revoking the caste certificate. It is impermissible for

him to do either of this and therefore the consequent action of dismissing the employee from service taken by the employer will have to be struck down. The employer ought to have referred the matter to the competent authority which was not done. Even back wages were granted. He also relied on 2002 Lab. IC page 1820, wherein it was held, "dismissal from service—Ground of furnishing false caste certificate—order of dismissal liable to set aside for non-compliance of mandatory provision". He also relied on 1999 (3) ALT 45 wherein the caste certificate was set aside by the Joint Collector. His Lordship held that only the Collector has got powers and set aside the cancellation. He also relied on an unreported judgment in WP 360001 of 1998 wherein the finding of the enquiry committee was set aside and directed the District Collector to conduct the enquiry. He also relied on a Division Bench Judgement of the Hon'ble High Court against the writ appeal against the same Judgement and the said writ appeal their Lordship stated that the caste community certificate was not cancelled by the competent authority therefore a direction was issued to the competent authority namely District Collector, Visakhapatnam to conduct a complete enquiry from the date of receipt of the said order and submit the report in the mean time the management was directed to reinstate the Petitioner.

6. The Learned Counsel for the Respondent argued that above cases are not applicable and in fact herein a regular enquiry had been conducted and the counsel for the Petitioner has conceded that the domestic enquiry is validly conducted. The Petitioner obtained the job on false certificate claiming himself to be "Yanadi-ST" whereas he does not belong to the "Yanadi-ST" caste.

7. I have gone through the charge sheet which alleges that he submitted a false/fake/forged ST Caste certificate purported to be issued by the then Tahsildar, S. Kota, now it was found that he does not belong to the same. When I go through the enquiry report I find domestic enquiry is validly conducted and Petitioner's counsel also conceded the same. But the question here is whether the domestic enquiry which tantamounts to cancellation of the caste certificate given by a competent Tahasildar or MRO as the case may be. Sec. 5 of the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 lays down where, "...obtained a false community certificate... District Collector either *suo motto* or by written complaint call for the record and enquire the correctness of the certificate." He shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation. So Sec. 5 is very clear that the competent authority is Collector and in the Judgement reported in 1996 Lab I.C. 1990 Karunakar Vs. Canara Bank wherein it was also a case, where the Petitioner had obtained employment claiming himself to be SC-C, he was not and the same was found by the Enquiry Officer. His

Lordship held that the Enquiry Officer is not competent authority to give finding as to the validity of the caste certificate unless revocation of caste certificate is effected by competent authority employee cannot be dismissed from service on the ground of misrepresentation. His Lordship not only directed reinstatement but also back wages. An unreported Judgement, WP No. 36001 of 1998 by our High Court wherein also APSRTC is the main Respondent who removed the claimant from service held that it was for the District Collector to enquire into the genuineness of the certificate and set aside the impugned proceedings.

8. That an appeal against the said Judgement in Writ Appeal No. 325 of 2002, their Lordship dismissed the appeal directing the management to reinstate the Petitioner, the Respondent No. 1 forth with into service. So I am of the opinion that the Judgement in WA No. 325 of 2002 applies on all force to the present case herein. Hence, I herein direct the Respondent to reinstate the Petitioner within 30 days after publication of this award on the minimum pay, he will be recruited on the post held at the time of dismissal and the respondents shall refer the matter in writing to the concerned District Collector for cancellation of the said certificate under Sec. 5 of the Act. Hence, the impugned order dated 25-5-2001 dismissing the services of the Petitioner is hereby set aside, however, if the Petitioner is not reinstated he shall be entitled for pay after one month of publication of this award only till the matter is decided by the District Collector. The question of payment of back wages will abide by the findings of the District Collector to whom a formal written complaint should be made and the Collector shall conduct enquiry under Sec. 5 of the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 after giving opportunity to Petitioner.

Award passed accordingly. Transmit.

Dictated to Smt. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 7th day of February, 2005.

E. ISMAIL, Presiding Officer

Appendix of Evidence

Witnesses examined for the Petitioner	Witnesses Examined for the Respondent
NIL	NIL
Documents marked for the Petitioner	
NIL	
Documents marked for the Respondent	
	NIL

नई दिल्ली, 22 मार्च, 2005

का.आ. 1464.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 350/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14011/13/2000-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 350/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14011/13/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 350/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Naval Air Station and their workmen].

BETWEEN:

Sri V. Vasudevan : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Naval Air Station,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour *vide* order No. L-14011/13/2000-IR (DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri V. Vasudevan, who has been engaged through pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 350/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 18-10-96 as A/c helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the A/c which is same work carried out by the permanent employees of principal employer represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contract, or does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 19-11-1999 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act.

Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 18-10-96 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of A/c., inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1465.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 354/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14011/18/2000-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1465.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 354/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14011/18/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 354/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Naval Air Station and their workmen.

BETWEEN:

Sri P. Kumar : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Naval Air Station,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14011/18/2000-IR (DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri P. Kumar, who has been engaged through Pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 354/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 1-7-96 as A/c helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the A/c which is same work carried out by the permanent employees of principal employer represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 19-11-1999 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in

service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 1-7-96 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of A/c., inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) “Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?”
- (ii) “To what relief the Petitioner is entitled?”

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, ‘No relief Award’ is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1466.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 365/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14011/29/2000-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1466.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 365/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14011/29/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday, the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 365/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Naval Air Station and their workmen)

BETWEEN:

Sri W. Sarma Iykia Raj : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Naval Air Station,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed.
Authorised Representative

For the Management : Mr. K.M. Venugopal. ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14011/29/2000-IR (DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri W. Sarma Iykia Raj, who has been engaged through Pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 365/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered into the services of the Respondent/Management on 3-3-97 as A/c helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioner was continued to remain the same. The Petitioner is operating and maintaining the A/c which is same work carried out by the permanent employees of principal employer represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 19-11-1999 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of

the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 3-3-97 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of A/c., inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

(i) "Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?"

(ii) To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1467.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 366/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14011/30/2000-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1467.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 366/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14011/30/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

PRESENT : K. JAYARAMAN, Presiding officer

INDUSTRIAL DISPUTE NO. 366/2001

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Naval Air Station and their workmen)

BETWEEN:

Sri A. Jayapal : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Naval Air Station,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14011/30/2000-IR (DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri A. Jayapal, who has been engaged through Pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 366/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered into the services of the Respondent/Management on 18-10-96 as A/c helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the A/c which is same work carried out by the permanent employees of principal employer represented by Garison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 19-11-1999 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of

Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 18-10-96 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of A/c., inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) “Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?”
- (ii) “To what relief the Petitioner is entitled?”

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set *ex-parte*. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, ‘No relief Award’ passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1468.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 370/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14011/36/2000-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1468.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 370/2001) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14011/36/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding officer

INDUSTRIAL DISPUTE NO. 370/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Naval Air Station and their workmen)

BETWEEN:

Sri S. Umakanthan : I Party/Petitioner

AND

Garrison Engineers. : II Party/Management
Naval Air Station.
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hamced.
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14011/36/2000-IR (DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri S. Umakan, than, who has been engaged through Pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 370/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered into the services of the Respondent/Management on 17-8-93 as A/c operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the A/c which is same work carried out by the permanent employees of principal employer represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 19-10-1997 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act.

The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 17-8-93 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c operator the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as operator of A/c., inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1469.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 371/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14011/37/2000-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 371/2001) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14011/37/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding officer

INDUSTRIAL DISPUTE NO. 371/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Naval Air Station and their workmen)

BETWEEN

Sri S. Ravi : I Party/Petitioner

AND

Garrison Engineers. : II Party/Management
Naval Air Station,
INS Rajali, Arakkonam.

Appearance :

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14011/37/2000-IR (DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri S. Ravi who has been engaged through Pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 371/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 12-12-89 as A/c Operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the A/c which is same work carried out by the permanent employees of principal employer represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 19-11-1995 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in

service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 12-12-89 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c Operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as operator of A/c., inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) “Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?”
- (ii) “To what relief the Petitioner is entitled?”

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set *ex-parte*. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, “No relief Award” passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का. आ. 1470.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 373/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14011/39/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1470.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 373/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-14011/39/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding officer

INDUSTRIAL DISPUTE NO. 373/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Naval Air Station and their workmen)

BETWEEN:

Sri A. Lawrence : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Naval Air Station,,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed.
Authorised Representative

For the Management : Mr. K. M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14011/39/2000-IR (DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri A. Lawrence, who has been engaged through Pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I. D. No. 373/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered into the services of the Respondent/Management on 6-6-92 as A/c Operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the A/c. which is same work carried out by the permanent employees of principal employer represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer. The Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 19-11-1995 without any notice and compensation. Therefore, the retrenchment from service will amount

to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 6-6-97 will not arise at all in as much as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as operator of A/c, in as much as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1471.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 303/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/52/2000-आई आर (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1471.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 303/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-14012/52/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT : K. JAYARAMAN,
Presiding officer

INDUSTRIAL DISPUTE NO. 303/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen]

BETWEEN:

Sri S.V. Selvam : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

Appearance :

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14012/52/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri S. V. Selvam, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 303/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner entered into the services of the Respondent/Management on 1-4-94 as Diesel Generator electrician and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the

Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 10-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 1-4-94 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Electrician the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories as Diesel Generator, Electrician inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

(i) “Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?”

(ii) “To what relief the Petitioner is entitled?”

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not

established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1472. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 304/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/51/2000-आईआर (डी यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1472. — In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 304/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workmen, which was received by the Central Government on 22-03-2005.

[No. L-14012/51/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

PRESENT: K. JAYARAMAN, Presiding officer

Industrial Dispute No. 304/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN

Sri V. Ganesan : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering
Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed.
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-14012/51/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri V. Ganesan, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-2-2000 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No.304/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner entered into the services of the Respondent/Management on 10-6-92 as Diesel Generator operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the overall control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along

with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-2-2000 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 10-6-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as operator of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through backdoor and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more

than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act. 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1473.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 305/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/50/2000-आईआर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1473.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 305/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workmen, which was received by the Central Government on 22-3-2005.

[No. L-14012/50/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

PRESENT : K. JAYARAMAN, Presiding officer

Industrial Dispute No. 305/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of

(ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-1-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1474. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 306/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/49/2000-आई.आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1474.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.306/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/49/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

PRESENT: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 306/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen].

BETWEEN

Sri R. Mohanram : I Party /Petitioner

AND

Garrison Engineers. : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14012/49/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

"Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri R. Mohanram, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No.306/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 10-4-92 as Diesel Generator Helper and the Petitioner is working through contractors. Even though the contractors change very often, the

Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along-with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-98 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back-wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 10-4-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim

of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-1-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1475.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 307/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/48/2000-आई.आर. (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1475.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.307/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the

Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/48/2000-IR (DU)]

KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

PRESENT : K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 307/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN

Sri P. Ramesh Babu : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour *vide* order No. L-14012/48/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri P. Ramesh Babu, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No.307/2001 and notices were issued to both the parties and both the parties entered appearance through

their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner entered into the services of the Respondent/Management on 15-4-92 as Diesel Generator Helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-98 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 15-4-94 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper Operator, the claim is not maintainable before this

Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

(i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"

(ii) To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1476 .— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 309/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/46/2000-आई.आर. (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1476.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 309/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/46/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT : K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 309/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN

Sri J. Babu : I Party /Petitioner

AND

Garrison Engineers. : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed.
Authorised Representative

For the Management : Mr. K.M. Venugopal. ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14012/46/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

"Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali,

Arakkonam in terminating the services of Shri J. Babu, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No.309/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner entered into the services of the Respondent/Management on 15-6-94 as Diesel Generator Helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-98 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25f of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colorable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 15-6-94 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1477.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 310/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/45/2000-आई आर (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1477.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.310/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/45/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 310/2001

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri S. Gopal : I Party /Petitioner

AND

Garrison Engineers. : II Party/Management
Military Engineering
Service, INS Rajali,
Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14012/45/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri S. Gopal, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No.310/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the claim statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 10-4-92 as Diesel Generator Helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal

because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 10-4-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-1-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1478.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 312/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/43/2000-आई आर (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1478.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 312/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M. E. S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/43/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 312/2001

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri P. Baskar : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering
Service, INS Rajali,
Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed.
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/43/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

"Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri P. Baskar, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-2-2000 is legal and justified? If not, to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No.312/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 7-7-92 as Diesel Generator operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-2-2000 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25f of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 7-7-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as operator of Diesel Generator, inasmuch as there is no direct link in availing the temporary

service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1479.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 313/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/42/2000-आई आर (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1479.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.313/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their

the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri G. Sivakumar : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering
Service,
INS Rajali, Arakkonam.

Appearance:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour *vide* order No. L-14012/50/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineers, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri G. Sivakumar, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-2-2000 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No.305/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner entered into the services of the Respondent/Management on 7-7-92 as Diesel Generator Operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract

system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-2-2000 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 7-7-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as Operator of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) “Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?”

workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/42/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 313/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri N. Ajazullah Shariff : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14012/42/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri N. Ajazullah Shariff who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-2-2000 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No.313/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 1-5-92 as Diesel Generator

operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-2-2000 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25f of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 1-5-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as operator of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1480.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 318/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/37/2000-आई आर (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1480.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 318/2001) of the Central Government Industrial/Tribunal Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-14012/37/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 318/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen]

BETWEEN:

Sri D. Manickam : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14012/37/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri D. Manickam, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No.318/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 10-4-92 as Diesel Generator Helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the

work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 10-4-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more

than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1481.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा-17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम. ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 319/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/36/2000-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 319/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineers, M. E. S. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-14012/36/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Disputes. 319/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri K. Pandurangan : I Party /Petitioner

AND

Garrison Engineers, : II Party/Management
 Military Engineering Service,
 INS Rajali, Arakkonam:

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
 Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide order No. L-14012/36/2000-IR (DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri K. Pandurangan, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No.319/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 15-6-94 as Diesel Generator helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25f of the I.D. Act. Further, the juniors

of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 15-6-94 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) “Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?”
- (ii) “To what relief the Petitioner is entitled?”

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, ‘No relief Award’ passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का. आ. 1482.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम.ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 321/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/34/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 321/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/34/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR CHENNAI**

Tuesday the 18th January, 2005

PRESENT : K. JAYARAMAN, Presiding Officer**Industrial Dispute No. 321/2001**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri N. Sridharan : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering
Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management: Mr. K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/34/2000-IR(DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri N. Sridharan, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 321/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 1-4-94 as Diesel Generator helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioner was continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from

this department. The allegation that the Petitioner entered into service of Respondent on 1-4-94 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Desel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-1-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का. आ. 1483.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 323/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/32/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 323/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/32/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Tuesday the 18th January, 2005

PRESENT : K JAYARAMAN, Presiding Officer

Industrial Dispute No. 323/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN

Sri R. Kumaresan : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering
Service,
INS Rajali, Arakkonam.

APPEARANCES :

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/32/2000-IR(DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

"Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri R. Kumaresan, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 323/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 10-4-92 as Diesel Generator helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While, so, the Petitioner alongwith other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 10-4-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by

established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-1-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefit under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का. आ. 1484.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 324/3/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/31/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1484.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 324/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/31/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Tuesday the 18th January, 2005

Present : K. JAYARAMAN, Presiding Officer**INDUSTRIAL DISPUTE No. 324/2001**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN

Sri J. Tamil : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering
Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management: Mr. K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-14012/31/2000-IR(DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri J. Tamil, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 324/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered into the services of the Respondent/Management on 15-6-94 as Diesel Generator helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator

which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While, so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 15-6-94 will not arise at all in as much as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, in as much as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are—

(i) “Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?”

(ii) “To what relief the Petitioner is entitled?”

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-1-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का. आ. 1485.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 372/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14011/38/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 372/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14011/38/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

Present : K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 372/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10

of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Naval Air Stations and their workmen)

BETWEEN

Sri D. Doss : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Naval Air Stations

INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management: Mr. K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14011/38/2000-IR(DU) dated 27-12-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri S. Doss, who has been engaged through Pilani Enterprises for operation and maintenance of DG sets w.e.f. 19-11-99 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 372/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/ Management on 8.7.93 as A/c Operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioner was continued to remain the same. The Petitioner is operating and maintaining the A/c which is same work carried out by the permanent employees of principal employer represented by Garrison Engineers. The work performed by the petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contractor Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the Principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain placed certain

charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request Respondent/ Management all of a sudden retrenched all the workmen including the Petitioner on and from 19.11.1999 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons the petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 8.7.93 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as A/c Operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as Operator of A/c., inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are:—

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2:—

6. after the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trail, therefore, on 10.01.2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act., 'No relief award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005).

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का. आ. 1486.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई. एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 328/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/27/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1486.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 328/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/27/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 328/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri S. Ramesh : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering
Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management: Mr. K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/27/2000-IR(DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri S. Ramesh, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 328/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner entered into the services of the Respondent/ Management on 15-6-94 as Diesel Generator Helper and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioner were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. the work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer, while so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination

of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service so Respondent on 15-6-94 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are—

(i) “Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?”

(ii) “To what relief the Petitioner is entitled?”

Point Nos. 1 & 2:—

6. after the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes act, 'No relief Award' is passed in this case.

7. The reference is disposal of accordingly.

(Dictated to the P.A. Transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1487.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरिसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 329/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-3-2005 को प्राप्त हुआ था।

[सं. एल-14012/26/2000-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1487.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 329/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-3-2005.

[No. L-14012/26/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 329/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen.

BETWEEN:

Sri J. Nathaniel : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/26/2000-IR(DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for

adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri J. Nathaniel, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 329/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 10-4-92 as Diesel Generator helper and the Petitioner is working through Contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act, Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered

into service of Respondent on 10-4-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/ Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1488.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 330/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/25/2000-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1488.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 330/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-14012/25/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE L No. 330/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen)

BETWEEN:

Sri P. Gurusave : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/25/2000-IR(DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

"Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri P. Gurusave, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 330/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

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3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 4-4-94 as Diesel Generator helper and the Petitioner is working through Contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act, Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-8-1998 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 4-4-94 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Helper, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as Helper of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work

which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 22 मार्च, 2005

का.आ. 1489.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एम.ई.एस. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 336/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-14012/19/2000-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 22nd March, 2005

S.O. 1489.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 336/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Garrison Engineer, M.E.S. and their workman, which was received by the Central Government on 22-03-2005.

[No. L-14012/19/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tuesday the 18th January, 2005

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 336/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Garrison Engineers, Military Engineering Service and their workmen].

BETWEEN:

Sri E. G. Wilson : I Party/Petitioner

AND

Garrison Engineers, : II Party/Management
Military Engineering Service,
INS Rajali, Arakkonam.

APPEARANCE:

For the Petitioner : M/s. M. Shahul Hameed,
Authorised Representative

For the Management : Mr. K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/19/2000-IR(DU) dated 30-11-2000 has referred this industrial dispute to this Tribunal for adjudication. The schedule mentioned dispute in that order is—

“Whether the action of the Garrison Engineers, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of Shri E. G. Wilson, who has been engaged through TNR Enterprises for operation and maintenance of DG sets w.e.f. 2-8-98 is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 336/2001 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner entered into the services of the Respondent/Management on 10-4-92 as Diesel Generator Operator and the Petitioner is working through contractors. Even though the contractors change very often, the Petitioners were continued to remain the same. The Petitioner is operating and maintaining the Diesel Generator

which is same work carried out by the permanent employees of principal employer namely Military Engineering Service represented by Garrison Engineers. The work performed by the Petitioner is very essential and so called contract system was only sham and nominal. Further, the contractor does not possess any valid licence as required under Contract Labour (Regulation & Abolition) Act. Since the work is permanent in nature, the over all control of workers and administrative control remains only with principal employer, the Petitioner is entitled to claim employment under the principal employer. While so, the Petitioner along with other workmen joined in the socialist workers union and the union placed certain charter of demands regarding confirmation and wage revision on par with permanent workmen, but without considering the said request, the Respondent/Management all of a sudden retrenched all the workmen including the Petitioner on and from 2-4-1995 without any notice and compensation. Therefore, the retrenchment from service will amount to victimisation and violation of Section 25F of the I.D. Act. Further, the juniors of the Petitioner are still retained in service, which is violation of Section 25G of the I.D. Act. The termination of the service is not for a reasonable cause and it is only colourable exercise of power and therefore, the termination of service of the Petitioner is improper, illegal. Hence, for all these reasons, the Petitioner prays to reinstate him in service with full back wages and other attendant benefits.

4. As against this, the Respondent contended that this petition is not maintainable before this Tribunal because the Respondent is carrying on sovereign function, which is not at all an industry within the meaning of I.D. Act and therefore, there is no cause of action at all from this department. The allegation that the Petitioner entered into service of Respondent on 10-4-92 will not arise at all inasmuch as there is no employer-employee relationship between the Respondent and the Petitioner. Since the Petitioner has concealed the fact that under which contractor at the relevant time, he has worked as Diesel Generator Operator, the claim is not maintainable before this Tribunal. The Petitioner at no point of time had worked in any one of the categories of work as operator of Diesel Generator, inasmuch as there is no direct link in availing the temporary service with time gap, the Petitioner cannot have any legal claim from the department as claimed in the petition. The Petitioner attempts to enter into the department through back door and not legally by established procedure. There is no specific description of work and duration of work which the Petitioner performed under contract and therefore, this petition is not maintainable. The claim of the Petitioner is totally false and the same is liable to be dismissed.

5. In these circumstances, the points for my consideration are —

- (i) “Whether the action of the Respondent/Management in terminating the Petitioner from service is legal and justified?”

(ii) "To what relief the Petitioner is entitled?"

Point Nos. 1 & 2 :—

6. After the filing of claim statement and counter statement, the case was posted for several hearings for examination of Petitioner. This dispute is pending for more than four years and the Petitioner is not interested in getting on with trial, therefore, on 10-01-2005 the Petitioner was called absent and set ex-parte. Since the Petitioner has not established that he is entitled to the benefits under the provisions of Industrial Disputes Act, 'No relief Award' is passed in this case.

7. The reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th January, 2005)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 23 मार्च, 2005

का.आ. 1490.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 50/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-03-2005 को प्राप्त हुआ था।

[सं. एल-12012/295/96-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 23rd March, 2005

S.O. 1490.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/97) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Punjab National Bank, and their workman, which was received by the Central Government on 22-03-2005.

[No. L-12012/295/96-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

R. N. RAI., Presiding Officer

I. D. No. 50/97

In the Matter of :—

Sh. Satish Chand Jain,
Clerk-Cum-Cashier (P.N.B.),
R/o N-57, Street No. 14,
Bihari Colony, Shahdara,
Delhi-32.

VERSUS :

The Chairman Cum Managing Director,
Punjab National Bank,
Hd. Office : Bhikaji Cama Place,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-12012/295/96 IR(B-2) Central Government Dt. 28-4-1997 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the action of the management of PNB in terminating the services of Sh. Satish Chand Jain, Clerk-Cum-Cashier W.e.f. 30-6-95 is just fair and legal? If not. What relief the concerned workman is entitled to and from what date?"

The workman has filed statement of claim. In his statement of claim, it has been stated that the workman is a permanent employee of the bank and was last posted at Tolstoy House Branch, Tolstoy Marg, New Delhi-1 as a Clerk cum Cashier. The last drawn salary of the workman was Rs. 6,800 appx. per month. That the workman had an unblemished record of 18 years of service to his credit. The facts giving rise to the present industrial dispute are that the workman after recovering from illness reported for duty on 23-7-94 but the Chief Manager for the reasons best known to him did not allow him to join his duty. As the luck would have it the workman again fell sick on 27-7-94 and due intimation in this regard was sent to the bank vide UPC letter dated 28-7-94. Since the workman could not recover again he intimated the management vide UPC letter dated 15-10-94 supported by original medical certificate issued by Dr. Sanjeev Gupta under whose treatment he had been. The said letter/reply was in response to the management's letter dated 10-10-94 accompanied by 2 original medical certificates issued on 14-10-94 and 15-10-94 to 15-11-94 by Dr. Sanjeev Gupta. The workman also intimated the bank vide his letter dated 17-11-94 to grant him leave for another one month. Despite the aforesaid communications the workman was astonished to receive a letter dated 22-11-94 levelling therein false and frivolous allegations of remaining unauthorisedly absent from duty.

After having recovered from the ailments the workman reported for duty on 17-12-94 alongwith an application but the Chief Manager of the branch refused to acknowledge the same and also did not allow him to join his duties. After that the workman went to establishment Incharge to get the said application received but he also refused to acknowledge the letter and advised him to contact the manager. This fact is also fully borne out on the said application. The workman then contacted the Branch Manager Sh. Duggal and made a bid to hand over the said application. He while accepting the same recorded a note on the said application after discussing with the Senior Manager. The said note recorded by the management

on the said application is neither justified nor legal. The factum of refusal from duty w.e.f. 17-12-94 which tantamounts to termination of service is not disputed.

That the workman sent a demand notice dated 23-12-94 alongwith original certificate dated 16-12-94 issued by Dr. Sanjeev Gupta under registered cover as well as under UPC addressed to the Chief Manager of the bank requesting therein reinstate him with continuity of service with full back wages but the manager even after having received the said demand notice neither reinstated the workman nor bothered to reply the same.

That the action of the management in terminating the services of the workman by way of levelling the charges of absentism which casts stigma on the character of the workman is in violation of principles of natural justice. The workman prior to the date of termination of services was neither charge sheeted nor an enquiry was held against him. Thus the alleged charge of absentism/unauthorised absence from the duty was never proved at any point of time. Thus the management throttled the principles of natural justice.

The management terminated the services of workman on 17-12-94 when he went to join duties and the said refusal tantamounts to wrongful and illegal termination of services. The workman during the pendency of the Industrial Dispute before the conciliation officer received a letter dated 30-6-95 by virtue of which he was intimated that since the workman has failed to report for duty and also failed to submit satisfactory explanation therefore his name stands struck off from the roll of the bank and he is voluntarily retired from bank's services. In this regard it is submitted that the aforesaid letter of the bank is contrary to the provisions of the Industrial Dispute Act 1947 as the approval or permission was not sought to voluntary retire the workman during the pendency of Industrial Dispute before the Hon'ble Commissioner/conciliation officer, Since the termination is in violation of the mandatory provision of the Industrial Dispute Act, therefore the same is illegal and void ab-initio.

That even otherwise the perusal of para 17 of Bipartite Settlement also provides in taking disciplinary action against the workman for remaining unauthorisedly absent before terminating his services by way of voluntarily retirement which has not been done in the present case. The workman was neither charge sheeted for the alleged misconduct of remaining absent nor any enquiry was constituted against him.

That the management effected the termination by using its colorable exercise of powers which is punitive in nature and being based on victimization and unfair labour practices and is not sustainable in the eye of law.

That the management while terminating the services of the workman has not complied with the mandatory requirements of Industrial Dispute Act 1947. The workman

at the time of termination of services was neither paid nor offered one month's wages in lieu of notice and service compensation. Thus the action taken by the management is illegal and void ab-initio.

That the workman being aggrieved of the aforesaid wrongful illegal and arbitrary action of the management initiated the conciliation proceeding by way of filing the statement of claim before the conciliation officer Central Govt. Delhi but no settlement could be arrived at between the parties on account of non co-operative vindictive and adamant approach of the management. However the management appeared before the conciliation officer and filed its reply to the statement of claim referring therein false and frivolous contentions.

The workman in reply to the written statement of the management submitted its rejoinder denying the contention of the management and also reiterated the contention as raised by him in the statement of claim. The conciliation officer submitted its failure report to the appropriate Govt. on the basis of which the present dispute has been referred to this Hon'ble Court for the purpose of adjudication. Hence the present order of reference.

That the workman is not gainfully employed since the date of termination of services and could not be able to search any job some whereelse despite his best efforts. The workman is therefore accordingly entitled for reinstatement with continuity of service with full back wages and all other consequential benefits.

The management has filed written statement. In the written statement, it has been stated that the service conditions of the bank employees are governed by the Bipartite Settlements and the applicant has been treated as voluntarily retired from the service of the bank as per provisions of BPS and thus this cannot be treated as termination of service as alleged. It may be mentioned that para-17 of the BPS provides that when an employee absents from duty for 90 or more days consecutively without submitting leave application the bank can retire such employees after giving 30 days notice after having been satisfied that such an employee has no intention to join duties. In the present case bank had issued notice dated 26-5-95 to the applicant giving 30 days to him to join duties failing which he shall be treated as voluntarily retired under the BPS as the applicant did not report for duties within the stipulated period he was deemed to be voluntarily retired from bank's service w.e.f. 30-6-95 and a letter to this effect was issued by the bank on the same date.

The applicant was posted at Branch office Tolstoy House w.e.f. 17-5-93 and he started absenting from duty from June' 94. He was in the habit of remaining unauthorisedly absent which will be evident from the following details:—

Month	Dates on which he did not attend office
April'94	6, 7, 12, 13, 19, 21, 22, 26, 28 & 29
May'94	1st to 21st, 26, 27, 30 & 31
June'94	1st to 3rd, 6th to 10th, 13th to 30th

He did not inform the bank with regard to the absence on all the above mentioned dates and did not attend bank even for a single day after 11-6-94. Observing his absence from duty without information the bank started giving him notice with regard to the above. The bank notices are dated 27-4-94 & 13-5-94. He submitted leave application for the period 2-5-94 to 21-5-94 accompanied by Medical Certificate of private Doctor leave for the period was sanctioned by bank on 10-6-94. Sh Jain attended office intermittently in May and June '94 and further notices dated 1-6-94, 17-6-94, 30-6-94 and 14-7-94 were sent to him vide registered letter dated 22-7-94. He was advised to present himself before the bank's Medical Officer and submit the medical fitness certificate from him. Therefore several letters/notices on different dates i.e. 26-7-94, 10-10-94, 22-11-94, 5-12-94, 14-12-94 and 21-12-94 were issued to the applicant but he continued to remain absent unauthorisedly and did not submit leave application supported by requisite certificates from bank's Medical Officer.

The bank received a registered letter dated 23-12-94 from the applicant wherein he had contended for reinstatement with continuity of service. It may be pointed out that the applicant had wrongly understood the notice served upon him by the bank. The applicant had only been called to join bank duties after getting himself examined from the bank's CMO and he did not comply with the instructions. He never came to the bank and there was no question of refusing to allow him to join duties. It is only when the applicant was absent in continuity since 11-6-94 and the bank was satisfied that he did not intend to join duties, the bank sent him notice dated 26-5-95 asking him to join failing which he would be treated as having voluntarily retired from the bank. This was responded by the applicant vide his letter dated 2-6-95 mentioning that he had gone to the bank to join duties but he was not allowed to join. This contention was totally false as he had never gone to the bank and vide bank's letter dated 7-6-95 the applicant was given a final opportunity to join duties in terms of bank's notice dated 26-5-95 failing which the bank will have no alternative but to treat him as voluntarily retired from the bank's service when the applicant still did not join duties, the bank vide letter dated 30-6-95 informed him that he had been voluntarily retired from the bank's service w.e.f. 30-6-95 and his name had been struck off from the rolls of bank. Bank had sent notices by registered AD post as required under provisions of the Bipartite Settlement.

The applicant was absenting himself from duty on the pretext of illness and was in the habit of remaining absent from bank without giving intimation in this regard. It is false that applicant reported for duties on 23-7-94. He never attended his duties after 11-6-94. As already submitted he was absent from duties for a number of days in April, May and June '94 and it was after a number of notices he submitted leave application for the period

2-5-94 to 21-5-94 alongwith medical certificate by a private doctor for which leave was duly sanctioned. Thereafter when he did not attend the office at all after 11-6-94 he was advised to get himself examined from the bank's Medical Officer and he failed to do so. The bank sent several letters/notices to him as detailed above but he failed to resume his duties.

It is false and fabricated statement that the applicant reported for duty on 17-12-94. He never submitted any application to the Chief Manager as claimed by him. On 17-12-94 when Sh. Jain visited the branch our Manager Sh. Duggal has advised him to follow the bank's guidelines/rules and produce himself before the bank's doctor for medical examination but he refused to get himself examined by bank's Medical Officer.

It is true that the bank received a registered letter dated 23-12-94 from the applicant alongwith the certificate dated 16-12-94 issued by Dr. Sanjeev Gupta with the request to reinstate him with continuity of service with full back wages. As already submitted in the brief history the bank had never terminated the service of the applicant as understood by him. The bank had only asked him to get himself examined by bank's Medical Officer which was not done by him.

The applicant has been absenting from the services of the bank in continuity and when the medical certificate submitted by him was not acceptable to the bank, he did not comply with the instructions to get himself examined from the bank's medical officer. There was no requirement to issue a charge sheet or hold an enquiry as the absence of the applicant was for more than 90 days and the bank was satisfied that he did not intend to join duties. It was only on 26-5-95 that the bank issued a notice giving 30 days time to join which was as per the provisions of para-17 of the BPS. The bank has strictly followed the provision of the BPS and there was no deviation of any rules whatsoever.

The applicant's claim that the principles of natural justice have been throttled by the bank is not justified, rather he failed to resume duties despite several letters notices from the bank. He also failed to comply with the instructions given to him by the bank.

The workman did not come to join on 17-12-94. However, the bank received a registered notice dated 23-12-94 from the applicant wherein he had contended for reinstatement with continuity of service. It may be pointed out that Sh. Jain had wrongly understood the notice served on him by the bank. Further, the ID was raised by him which was forwarded by the RLC (C) office letter dated 31-7-95 and the date for holding discussions was 22-8-95. Thus his voluntary cessation is well within the right of the management and thus is not illegal.

There is no question of taking disciplinary action since para-17 clearly spells out the condition in which an

employee can be voluntarily retired when he has been absenting continuously for 90 or more days. Thus there is no violation of any sort. The bank was very much within its right having exercised its powers as provided under para-17 of the BPS which is an agreement between the bank and the workman and followed throughout the banking industry. The applicant was fully aware that his non-joining duties will tantamount to voluntary cessation of employment.

He was given reasonable time to join duty but he did not do so when the bank finally treated him as voluntarily retired on 30-6-96. This is a voluntary cessation of employment of the applicant and the provisions of para-17 of the BPS have been invoked. There is no question of termination and as such the bank is not required to pay any wages in lieu of notice or any compensation. The action taken by the bank is legal and as per provisions laid down in the BPS.

The reason given by the applicant that he is not employed since the date of voluntary cessation does not make him eligible in any way to be reinstated in the bank. The bank's action is fully justified in having treated him as voluntarily retired from the service of the bank.

The workman applicant has filed rejoinder. In his rejoinder he has asserted that he went several times to the Bank for joining but he was refused to join. He has sent letters by registered post also so it cannot be said that he has intention of not joining his services. He has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from the side of the workman applicant as well as the management/respondent.

It was submitted from the side of the applicant that he went to the bank to resume his duty on 23-07-1994 along with fitness certificate but he was not permitted to join. This letter has been admitted by the respondent as such the contents of the letter are also admitted and it is established that the applicant went to the Bank to join duty. It was further submitted that the workman applicant again went to join his duty but he was refused. This letter dated 17-12-1994 has also been admitted by the respondent and there are some endorsements of the Bank. It has been mentioned in the letter that he submitted medical certificate and application on 23-07-1994 but he was not permitted to join. The admission of the letter indicates that it is admitted to the management that the workman applicant went to the Bank to join duty on 23-7-1994 as well as on 17-12-1994.

It was further submitted that the applicant has annexed letter dated 02-06-1995. This letter has also been admitted by the management. It has been stated in this letter that he went to resume duties in response to the letter dated 26-05-1995 on 02-06-1995 but the Chief Manager,

Shri R.S. Mishra detained him up to 12 O'clock but he did not permit him to join duty. So he sent this letter to the Chief Manager and requested him to take him into service. These three letters are photocopies but they have been specifically admitted by the management as such the entire contents of these three letters shall be deemed to be admitted and it is proved beyond in iota of doubt that the applicant went thrice i.e; on 23-07-1994, 17-12-1994 & 02-06-1995 to join duty. This fact is well proved so this cannot be said that the applicant has no intention to resume his duties. The behaviour of the management with the applicant indicates that the management was prejudiced and determined not to allow the workman applicant to join duty on some pretext or the other. He was asked orally to bring certificate of fitness from CMO but the CMO refused to give him such certificate, as he was not under his treatment. The applicant was verbally asked to bring fitness certificate. No direction in writing to the CMO was given by the management to examine the applicant and give fitness certificate. The applicant was disgusted by the behaviour of the management he took shelter of the Court and he sent legal demand notice on 23-12-1994. Even on receipt of the legal demand notice the management took no action and the legal notice was not replied. As such it is established that the applicant was very much willing to join and he did go thrice to the Bank to join duty but he was refused on some pretext or the other. There is no force in the contention of the management that the workman applicant was absent unauthorisedly.

It was further submitted that the applicant has given applications for medical leave along with fitness certificate. He has sent application on 28-07-1994 and on 14-10-1994 and along with the legal demand notice as such he has applied on three dates for granting him medical leave but his application was neither rejected nor accepted. These applications are supported by un-rebutted affidavit of the applicant. He has been cross-examined but the same has not been refuted. These applications are supported by certificate of posting. The receipt of these applications have been denied but no question has been asked in cross-examination regarding the receipt of these letters. As such it shall be deemed established that the applicant had sent applications for medical leave also. He was humiliated three times. No direction to the CMO was given to examine the applicant and give medical certificate. In this connection my attention was drawn to BPS. The management witness has admitted in his cross-examination that ordinarily medical certificate of any Doctor is accepted, only in case of prolonged illness, certificate from CMO is insisted. The applicant was not sick for a long time so the management with vindictive attitude directed the applicant to get himself examined from the CMO but the CMO refused to do so as he had no direction from the management to examine the applicant and give medical certificate. The applicant requested the management to direct the CMO to examine him medically but to no effect. The management kept silent.

This shows the medical certificate from CMO was only pretence to remove the applicant from service.

It was further submitted that an employee who thrice goes to join duty admittedly and sent applications for medical leave cannot be said to have any intention not to join duty.

It was submitted from the side of the management that the applicant did not file medical certificate from the CMO so he was not permitted to join. The CMO is an appointee of the management and he acts according to the instructions of the management. No instructions in writing have been given to the CMO to examine the applicant and give medical certificate. This plea was taken only to harass the employee with vindictive attitude and the management was predetermined not to permit him to join duties. No such action was taken even on receipt of legal demand notice along with the medical certificate so there is no force in the argument of the management that the applicant did not get himself examined from the CMO so he was not permitted to join. The applicant has submitted certificate of registered Medical Petitioner and he was sick only for a short period so ordinarily his medical applications should have been entertained but the management was biased and prejudiced and bent upon removing the applicant by hook or by crook so his medical certificate was not considered. This shows vindictive attitude on the part of the management. The only argument of the management is that the applicant was unauthorisedly absent but the above discussions prove it to the hilt that he had no intention not to join and he was not unauthorisedly absent.

It was submitted from the side of the applicant that he received letter dated 26-05-1995 to show cause notice within 30 days or to report to duty. Admittedly in response to this letter the applicant presented himself before the authority concerned to resume his duties but he was refused so it cannot be said that he did not go to join duty in response to 30 days notice. If he has gone to join duty, show cause notice becomes infructuous and non existent and no action should have been taken on the basis of that notice.

It was further submitted from the applicant that he raised dispute before the Conciliation Officer and when the RLC (C) sent notice he was compulsorily retired on 30-06-1995.

My attention was drawn by the management to 2001 (1) LLN 768. The Hon'ble Supreme Court has held that the employee should report to duty and give satisfactory reply. In this case the employee did not report for duty and he could not prove that he has sent satisfactory explanation so the intention was gathered that the applicant had intention not to join duty. In the present case the applicant after receiving 30 days notice had reported for duty so the provisions of Section 17a cannot be invoked against the

applicant and there is sufficient material on the record to prove that he went to join duty as has been discussed above. So this law of the Hon'ble Supreme Court is not applicable in the present facts and circumstances of the case. My attention was drawn to JT 2000 (5) SC 243. In this case the applicant has refused to receive 30 days notice and he has not deliberately received the order of compulsorily cessation of service. In the circumstances the Hon'ble Supreme Court held that the provisions of Section 17a of the bipartite settlement can be invoked. He has moved the Labour Court after three years of compulsorily retirement. This case law is also not applicable in the present facts and circumstances of the case. The applicant after receiving 30 days notice admittedly went to join duty but he was refused to join duty. As such according to the law cited by the management principles of natural justice have not been followed and the Hon'ble Supreme Court has held that the Tribunal or the Court can ascertain on the basis of the evidence and other material on the record regarding the compliance of the principles of natural justice, fairness and reasonable. There is sufficient evidence on the record that the applicant reported for duty but he was refused duty and his three letters dated 23-07-1994, 17-12-1994 & 02-06-1995 establish the fact that he approached the management three times to join duty. This law is not applicable in the facts and circumstances of the present case.

My attention was drawn to 1979 1 LLJ 257 SC by the applicant. The Hon'ble Supreme Court has held:—

“Abandonment or relinquishment of service is always a question of intention and normally, such intention cannot be attributed to an employee without adequate evidence in that behalf. Thus, where there has been a voluntary abandonment of service or not is a question of fact which is to be determined in the light of surroundings circumstances.”

As such according to the decision of the Hon'ble Supreme Court as well as Para 17a of the bipartite settlement it must be established that the applicant had no intention to join duty and he has taken some other avocation and he has gone out of India. The law cited by the applicant is fully applicable in the facts and circumstances of the case.

My attention was drawn to II LLJ 1993. The Hon'ble Supreme Court has held that illegal termination of service visits with civil consequences of jeopardizing not only the workers livelihood but also the carrier and livelihood of the dependents. Thus there should be fair play in putting an end to the tenure of an employee. He has protection in Article 14 and Article 21 of the Constitution. The right to service cannot be taken away on whimsical and flimsy grounds. The management must resort to just, fair and reasonable procedure. The management has not done so in the present case. Order has been passed in utter disregard of Para 17a of the BPS.

My attention was drawn to 2001 LLJ Pg. 1630. The Hon'ble Supreme Court has held on page 1632 that in case the workman applicant reports for duty and he was not permitted to join duty the management should conduct an inquiry but no such inquiry has been conducted. This law is also applicable in the present facts and circumstances of the case. Para 17a also lays emphasis on the fact that intention not to join is material if there is intention to join there cannot be abandonment.

From above discussion it becomes fully established that the applicant went to join duty on 23-07-1994, 17-12-1994 and 02-06-1995 but he was not permitted to resume his duty. He had responded the 30 days notice and reported for joining duty within 30 days but he was refused to join duty. So 30 days notice has become futile and infructuous. No action can be taken on the ground of 30 days notice if it has been complied with. The management retired him compulsorily when case was pending before the RLC(C) as such the service condition of the applicant was changed during the pendency of his case in violation of Section 33 of the ID Act. There is punishment for such action in Section 31 of the ID Act but the management with ulterior motives and malafide intention did not permit the applicant to join duty but

passed order regarding compulsory cessation of service on 30-06-1995. The order is absolutely unjust, unfair, arbitrary and illegal. It cannot be sustained in view of the proven facts. It is liable to be set aside and the order dated 30-06-1995 is set aside hereby. The applicant is entitled to be reinstated w.e.f. 30-06-1995 with continuity of service with all the consequential benefits and full back wages.

The reference is replied thus.

The action of the management of the Punjab National Bank in terminating the services of Shri Satish Chand Jain, Clerk-cum-Cashier w.e.f. 30-06-1995 is neither just nor fair and nor legal. The workman applicant is entitled to be reinstated w.e.f. 30-06-1995 along with continuity of service and all the consequential benefits and full back wages. The management/respondent is directed to reinstate the workman applicant within 30 days from publication of the Award and pay him entire back wages along with all the consequential benefits. In case of default the workman applicant will be entitled to get an interest of 12% per annum over the entire back wages. No order as to costs.

The Award is given accordingly.

Dated: 18-03-2005.

R.N. RAI, Presiding Officer